

AN ACT

relating to the development, management, and preservation of the water resources of the state; providing penalties.

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

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01. 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.

SECTION 1.02. 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 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 1.03. Subsection (j), Section 5.701, 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 for applications for instream-use water rights] deposited into the Texas Water Trust.

SECTION 1.04. 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.

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

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

(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being. The legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

(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 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 amended to authorize use 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 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, 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 1.07. 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 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 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.

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

(l) 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 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 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

(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.

(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 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 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 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 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 (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 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 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 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 1.08. Subsection (b), Section 11.082, 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 1.09. 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 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 1.10. Subsection (a), Section 11.0842, 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.

SECTION 1.11. Subsection (a), Section 11.0843, 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 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 1.12. Subsection (b), Section 11.134, 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 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 1.13. 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 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 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 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 1.14. 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 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;

(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 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 1.15. The heading to Section 11.148, Water Code, is amended to read as follows:

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

SECTION 1.16. 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 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 1.17. Subsection (a), Section 11.1491, 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.

SECTION 1.18. Subsection (g), Section 11.329, 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 1.19. Subsection (e), Section 11.404, 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; or
- (2) a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. 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 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 1.21. 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 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 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 1.22. 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 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 1.23. Subsection (d), Section 16.059, 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.

SECTION 1.24. Subsection (h), Section 26.0135, Water Code, as amended by Chapters 234 and 965, Acts of the 77th 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 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.

SECTION 1.25. Subsection (b), Section 11.1491, Water Code, is repealed.

SECTION 1.26. (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 article, as soon as practicable on or after the effective date of this Act.

(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 article. 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 article. 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 article. The terms of the initial members of each team expire 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 article, 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 1.27. The changes in law made by this article 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 date of this Act or is filed with the commission on or after that date.

## ARTICLE 2. WATER CONSERVATION AND PLANNING AND OTHER WATER-RELATED PROVISIONS

SECTION 2.01. Section 1.003, Water Code, is amended to read as follows:

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

- (1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;
- (2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

- (3) the reclamation and drainage of the state's overflowed land and other land needing drainage;
- (4) the conservation and development of its forest, water, and hydroelectric power;
- (5) the navigation of the state's inland and coastal waters; [and]
- (6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and
- (7) the voluntary stewardship of public and private lands to benefit waters of the state.

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

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

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

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

SECTION 2.03. Subtitle A, Title 2, Water Code, is amended by adding Chapter 10 to read as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. In this chapter:

- (1) "Best management practices" has the meaning assigned by Section 11.002.
- (2) "Board" means the Texas Water Development Board.
- (3) "Commission" means the Texas Commission on Environmental Quality.
- (4) "Council" means the Water Conservation Advisory Council.

Sec. 10.002. PURPOSE. The council is created to provide the

governor, lieutenant governor, speaker of the house of representatives, legislature, board, commission, political subdivisions, and public with the resource of a select council with expertise in water conservation.

Sec. 10.003. CREATION AND MEMBERSHIP.

(a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or

interest groups:

- (1) Texas Commission on Environmental Quality;
- (2) Department of Agriculture;
- (3) Parks and Wildlife Department;
- (4) State Soil and Water Conservation Board;
- (5) Texas Water Development Board;
- (6) regional water planning groups;
- (7) federal agencies;
- (8) municipalities;
- (9) groundwater conservation districts;
- (10) river authorities;
- (11) environmental groups;
- (12) irrigation districts;
- (13) institutional water users;
- (14) professional organizations focused on water conservation;
- (15) higher education;
- (16) agricultural groups;
- (17) refining and chemical manufacturing;
- (18) electric generation;
- (19) mining and recovery of minerals;
- (20) landscape irrigation and horticulture;
- (21) water control and improvement districts;
- (22) rural water users; and
- (23) municipal utility districts.

(b) Each entity or interest group described by Subsection

(a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Sec. 10.004. TERMS. (a) Members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) The board shall fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. PRESIDING OFFICER. The council members shall select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. On request by the council, the board shall provide any necessary staff to assist the council in the performance of its duties.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION.

(a) The council may hold public meetings as needed to fulfill

its  
duties under this chapter.

(b) The council is subject to Chapters 551 and 552, Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW.  
Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS.

(a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL.  
The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water conservation public awareness program developed under Section 16.401 and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation strategies by water users included in regional water plans; and

(7) monitor target and goal guidelines for water conservation to be considered by the board and commission.

Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on progress made in water conservation in this state.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) The council shall conduct a study to evaluate the desirability of requiring the board to:

(1) designate as certified water conservation

\_training facilities entities and programs that provide assistance \_  
\_to retail public utilities in developing water conservation plans \_  
\_under Section 13.146; and\_

\_ (2) \_ \_ \_give preference to certified water  
conservation \_

\_training facilities in making loans or grants for water \_  
\_conservation training and education activities.\_

\_ (b) \_ \_ \_Not later than December 1, 2008, the council shall \_  
\_submit a written report containing the findings of the study and the \_  
\_recommendations of the council to the governor, lieutenant \_  
\_governor, and speaker of the house of representatives.\_

\_ (c) This section expires June 1, 2009.\_

SECTION 2.04. Section 11.002, Water Code, is amended by  
adding Subdivision (20) to read as follows:

\_ (20) \_ \_ \_"Best management practices" means those \_  
\_voluntary efficiency measures developed by the commission and the \_  
\_board that save a quantifiable amount of water, either directly or \_  
\_indirectly, and that can be implemented within a specified time \_  
\_frame.\_

SECTION 2.05. Subdivisions (1-a), (5), and (8), Section  
13.002, Water Code, are amended to read as follows:

(1-a) "Landowner," "owner of a tract of land," and  
"owners of each tract of land" include multiple owners of a single  
deeded tract of land as shown on the appraisal roll of the appraisal  
district established for each county in which the property is  
located.

(5) "Commission" means the Texas [Natural Resource  
Conservation] Commission on Environmental Quality.

(8) "Executive director" means the executive director  
of the commission [Texas Natural Resource Conservation  
Commission].

SECTION 2.06. Subchapter E, Chapter 13, Water Code, is  
amended by adding Sections 13.146 and 13.147 to read as follows:

\_Sec. \_ \_ 13.146. \_ \_ \_WATER CONSERVATION PLAN. \_ \_The  
commission shall \_

\_require a retail public utility that provides potable water service \_  
\_to 3,300 or more connections to submit to the executive \_  
\_administrator of the board a water conservation plan based on \_  
\_specific targets and goals developed by the retail public utility \_  
\_and using appropriate best management practices, as defined by \_  
\_Section 11.002, or other water conservation strategies.\_

\_Sec. \_ \_ 13.147. \_ \_ \_CONSOLIDATED BILLING AND COLLECTION  
CONTRACTS. (a) \_ \_ \_A retail public utility providing water service \_  
\_may contract with a retail public utility providing sewer service \_  
\_to bill and collect the sewer service provider's fees and payments \_  
\_as part of a consolidated process with the billing and collection of \_  
\_the water service provider's fees and payments. \_ \_The water  
service \_

\_provider may provide that service only for customers who are served \_  
\_by both providers in an area covered by both providers' \_  
\_certificates of public convenience and necessity. \_ \_If the water \_  
\_service provider refuses to enter into a contract under this \_  
\_section or if the water service provider and sewer service provider \_  
\_cannot agree on the terms of a contract, the sewer service provider \_

may petition the commission to issue an order requiring the water service provider to provide that service.

(b) A contract or order under this section must provide procedures and deadlines for submitting billing and customer information to the water service provider and for the delivery of collected fees and payments to the sewer service provider.

(c) A contract or order under this section may require or permit a water service provider that provides consolidated billing and collection of fees and payments to:

(1) terminate the water services of a person whose

sewage services account is in arrears for nonpayment; and

(2) charge a customer a reconnection fee if the customer's water service is terminated for nonpayment of the customer's sewage services account.

(d) A water service provider that provides consolidated billing and collection of fees and payments may impose on each sewer service provider customer a reasonable fee to recover costs associated with providing consolidated billing and collection of fees and payments for sewage services.

SECTION 2.07. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.188 to read as follows:

Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS.

(a) Notwithstanding any other provision in this chapter, the commission by rule shall adopt a procedure allowing a utility to file with the commission an application to timely adjust the utility's rates to reflect an increase or decrease in documented energy costs in a pass through clause. The commission, by rule, shall require the pass through of documented decreases in energy costs within a reasonable time. The pass through, whether a decrease or increase, shall be implemented on no later than an annual basis, unless the commission determines a special circumstance applies.

(b) Notwithstanding any other provision to the contrary, this adjustment is an uncontested matter not subject to a contested case hearing. However, the executive director shall hold an uncontested public meeting:

(1) on the request of a member of the legislature who represents the area served by the water and sewer utility; or

(2) if the executive director determines that there is substantial public interest in the matter.

(c) A proceeding under this section is not a rate case and Section 13.187 does not apply.

SECTION 2.08. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) If [Except as provided by Subsection (b), if] a municipality extends its extraterritorial jurisdiction to include

an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

(b) A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.

(c) The commission, after notice to the municipality and an opportunity for a hearing, may decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. This subsection does not apply to a certificate of public convenience and necessity for an area:

- (1) that was transferred to a municipality on approval of the commission; and
- (2) in relation to which the municipality has spent public funds.

(d) To the extent of a conflict between this section and Section 13.245, Section 13.245 prevails. [The commission may not extend a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. The portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void].

SECTION 2.09. Subsection (a-1), Section 13.246, Water Code, is amended to read as follows:

(a-1) Except as otherwise provided by this subsection, in addition to the notice required by Subsection (a), the commission shall require notice to be mailed to each owner of a tract of land that is at least 25 [50] acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:

- (1) Section 13.248 or 13.255; or
- (2) Chapter 65.

SECTION 2.10. Subsection (b), Section 15.102, Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide:  
(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

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

(B) projects, on specific legislative appropriation for those projects; or

(C) water conservation, desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

SECTION 2.11. Subchapter Q, Chapter 15, Water Code, is amended by adding Section 15.9751 to read as follows:

Sec. 15.9751. PRIORITY FOR WATER CONSERVATION.

The board shall give priority to applications for funds for the implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

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

SECTION 2.12. Section 16.017, Water Code, is amended to read as follows:

Sec. 16.017. TOPOGRAPHIC AND GEOLOGIC MAPPING. (a) The executive administrator shall carry out the program for topographic and geologic mapping of the state.

(b) The executive administrator shall operate as part of the Texas Natural Resources Information System a strategic mapping program to acquire, store, and distribute digital, geospatial information.

SECTION 2.13. Subchapter B, Chapter 16, Water Code, is amended by adding Sections 16.023 and 16.024 to read as follows:

Sec. 16.023. STRATEGIC MAPPING ACCOUNT.

(a) The strategic mapping account is an account in the general revenue fund. The account consists of:

(1) money directly appropriated to the board;

(2) money transferred by the board from other funds available to the board;

(3) money from gifts or grants from the United States government, state, regional, or local governments, educational institutions, private sources, or other sources;

(4) proceeds from the sale of maps, data, publications, and other items; and

(5) interest earned on the investment of money

in the  
account and depository interest allocable to the account.

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

- (1) develop, administer, and implement the strategic mapping program;
- (2) provide grants to political subdivisions for projects related to the development, use, and dissemination of digital, geospatial information; and
- (3) administer, implement, and operate other programs of the Texas Natural Resources Information System, including:
  - (A) the operation of a Texas-Mexico border region information center for the purpose of implementing Section 16.021 (e) (5);
  - (B) the acquisition, storage, and distribution of historical maps, photographs, and paper map products;
  - (C) the maintenance and enhancement of information technology; and
  - (D) the production, storage, and distribution of other digital base maps, as determined by the executive administrator or a state agency that is a member of the Texas Geographic Information Council.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024, Government Code, Sec. 16.024. FINANCIAL ASSISTANCE FOR DIGITAL, GEOSPATIAL INFORMATION PROJECTS. (a) A political subdivision seeking a grant under Section 16.023 must file an application with the board.

(b) An application must be filed in the manner and form required by board rules.

(c) In reviewing an application by a political subdivision for a grant, the board shall consider:

- (1) the degree to which the political subdivision has used other available resources to finance the development, use, and dissemination of digital, geospatial information;
- (2) the willingness and ability of the political subdivision to develop, use, and disseminate digital, geospatial information; and
- (3) the benefits that will be gained by making the grant.

(d) The board may approve a grant to a political subdivision only if the board finds that:

- (1) the grant will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further the state's ability to gather, develop, use, and disseminate digital, geospatial information.

SECTION 2.14. Subsection (h), Section 16.053, Water Code, is amended by adding Subdivisions (10) and (11) to read as follows:

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

(11) This subdivision applies only to an amendment to a regional water plan approved by the board. This subdivision does not apply to the adoption of a subsequent regional water plan for submission to the board as required by Subsection (i). Notwithstanding Subdivision (10), the regional water planning group may amend the plan in the manner provided by this subdivision if the executive administrator makes a written determination that the proposed amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. A proposed amendment qualifies for adoption in the manner provided by this subdivision only if the amendment is a minor amendment, as defined by board rules, that will not result in the overallocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. If the executive administrator determines that a proposed amendment qualifies for adoption in the manner provided by this subdivision, the regional water planning group may adopt the amendment at a public meeting held in accordance with Chapter 551, Government Code. The proposed amendment must be placed on the agenda for the meeting, and notice of the meeting must be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. The public must be provided an opportunity to comment on the proposed amendment at the meeting.

SECTION 2.15. Subsection (r), Section 16.053, Water Code, as added by Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(r) The board by rule shall provide for reasonable flexibility to allow for a timely amendment of a regional water plan, the board's approval of an amended regional water plan, and the amendment of the state water plan. If an amendment under this

subsection is [,] to facilitate planning for water supplies reasonably required for a clean coal project, as defined by Section 5.001, the [The] rules may allow for amending a regional water plan without providing notice and without a public meeting or hearing under Subsection (h) if the amendment does not:

(1) significantly change the regional water plan, as

- reasonably determined by the board; or
- (2) adversely affect other water management strategies in the regional water plan.

SECTION 2.16. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.1311 to read as follows:

Sec. 16.1311. PRIORITY FOR WATER CONSERVATION.

The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

- (1) have already demonstrated significant water conservation savings; or
- (2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.17. 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 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 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 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 2.18. Chapter 16, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS

PROGRAM. (a) The executive administrator shall develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. The program shall take into account the differences in water conservation needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water conservation programs.

(b) The executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW.

(a) Each entity that is required to submit a water conservation plan to the commission under this code shall submit a copy of the plan to the executive administrator.

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

(c) The executive administrator shall review each water conservation plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 and the submission deadlines developed under Subsection (e) of this section.

(d) The board may notify the commission if the board determines that an entity has violated this section or a rule adopted under this section. Notwithstanding Section 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.

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

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

(2) providing for the enforcement of this section and rules adopted under this section.

SECTION 2.19. Section 17.125, Water Code, is amended by adding Subsection (b-2) to read as follows:

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

(1) have already demonstrated significant water conservation savings; or

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

SECTION 2.20. Chapter 35, Water Code, is amended by adding Section 35.020 to read as follows:

Sec. 35.020. PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT PROCESS. It is the policy of the state to encourage public participation in the groundwater management process in areas within a groundwater management area not represented by a groundwater conservation district.

SECTION 2.21. Subsection (d), Section 36.113, Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment,

the district shall consider whether:

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;
- (2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;
- (3) the proposed use of water is dedicated to any beneficial use;
- (4) the proposed use of water is consistent with the district's certified water management plan;
- (5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;
- (6) the applicant has agreed to avoid waste and achieve water conservation; and
- (7) [(6)] the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 2.22. Subsection (d), Section 36.117, Water Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

- (1) the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;
- (2) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or
- (3) [(2)] the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

SECTION 2.23. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2205 to read as follows:

Sec. 49.2205. USE OF RIGHT-OF-WAY EASEMENTS FOR CERTAIN

ENERGY-RELATED PURPOSES. (a) To foster the generation and transmission of electricity from clean coal projects, as defined by Section 5.001, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, a district or water supply corporation may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along rights-of-way and easements of the district or water supply corporation for transmission of electricity generated by those projects and the transportation of carbon dioxide and other greenhouse gases, unless the use:

- (1) is incompatible with the public use for

which the  
\_ easement was acquired or condemned; or  
\_ (2) compromises public health or safety.  
\_ (b) \_ \_ \_ The district or water supply corporation is not  
\_ required  
\_ to obtain additional consideration for the construction,  
\_ maintenance, and operation of the transmission lines and pipelines \_  
\_ under this section if the person constructing, maintaining, and \_  
\_ operating the transmission lines and pipelines bears all costs of \_  
\_ the construction, maintenance, and operation of the transmission \_  
\_ lines and pipelines and restoring the property. The activities \_  
\_ authorized by this subsection may be exercised only with the \_  
\_ consent of and subject to the direction of the governing body of the \_  
\_ district or water supply corporation.

\_ (c) \_ \_ \_ A person that is subject to Subsection (a) that  
\_ acquires \_  
\_ a right-of-way easement on real property for a public use may \_  
\_ include in the notice of the acquisition a statement that to foster \_  
\_ the generation and transmission of electricity from clean coal \_  
\_ projects as defined by Section 5.001, Water Code, renewable energy \_  
\_ technology projects, and the capture and storage of carbon dioxide \_  
\_ and other greenhouse gases, water districts and water supply \_  
\_ corporations may allow others to construct, maintain, and operate \_  
\_ transmission lines and pipelines over, under, across, on, or along \_  
\_ the rights-of-way and easements for the transmission of electricity \_  
\_ that is generated by those projects and transportation of carbon \_  
\_ dioxide and other greenhouse gases, unless the use:  
\_ (1) \_ \_ \_ is incompatible with the public use for

which the  
\_ easement was acquired or condemned; or  
\_ (2) compromises public health or safety.  
\_ (d) \_ \_ \_ This section applies only to a right-of-way or  
\_ easement \_  
\_ acquired by the district or water supply corporation on or after \_  
\_ September 1, 2007.

\_ (e) \_ \_ \_ This section does not apply to a right-of-way or \_  
\_ easement that is used for the transmission of electricity without \_  
\_ the consent of a person owning the transmission lines if that use \_  
\_ began before September 1, 2007.

SECTION 2.24. 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, 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 under commission rules, for the use and  
benefit of the municipal water 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 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. (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.

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:

(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 Grande 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 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.

(e) A district may request from a municipal water supplier a map of the municipal water supplier'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.

SECTION 2.25. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. The Texas Higher Education Coordinating Board shall encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down.

SECTION 2.26. Chapter 68, Education Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 68.21. SUSTAINABLE WATER SUPPLY RESEARCH CENTER.

(a) In this section, "center" means the Sustainable Water Supply Research Center.

(b) The board may establish and operate the Sustainable Water Supply Research Center as part of The University of Texas at Arlington.

(c) If established, the center shall:

(1) conduct, sponsor, or direct multidisciplinary research directed toward:

(A) promoting water conservation through development of a sustainable water supply for this state; and

- \_(B)\_\_\_ \_\_ \_\_mitigating the effect of diminishing  
water \_\_\_  
supplies on the economy and people of this state; and
- \_(2)\_\_\_ \_\_ \_\_conduct a comprehensive, interdisciplinary \_\_\_  
instructional program in water conservation with emphasis on \_\_\_  
development of a sustainable water supply at the graduate level and \_\_\_  
offer undergraduate courses for students interested in water \_\_\_  
conservation and sustainable water supply development.
- \_(d)\_\_\_ \_\_ \_\_The organization, control, and management of the  
center \_\_\_  
are vested in the board.
- \_(e)\_\_\_ \_\_ \_\_The center may enter into an agreement or may  
cooperate \_\_\_  
with a public or private entity to perform the research functions of \_\_\_  
the center.
- \_(f)\_\_\_ \_\_ \_\_The board may solicit, accept, and administer  
gifts and \_\_\_  
grants from any public or private source for the use and benefit of \_\_\_  
the center.

SECTION 2.27. Section 447.004, Government Code, is amended  
by adding Subsection (c-1) to read as follows:

- \_(c-1)\_\_\_ \_\_ \_\_The procedural standards adopted under this  
section \_\_\_  
must require that on-site reclaimed system technologies, including \_\_\_  
rainwater harvesting, condensate collection, or cooling tower blow \_\_\_  
down, or a combination of those system technologies, for nonpotable \_\_\_  
indoor use and landscape watering be incorporated into the design \_\_\_  
and construction of:
- \_(1)\_\_\_ \_\_ \_\_each new state building with a roof  
measuring at \_\_\_  
least 10,000 square feet; and
- \_(2)\_\_\_ \_\_ \_\_any other new state building for which the \_\_\_  
incorporation of such systems is feasible.

SECTION 2.28. Section 341.042, Health and Safety Code, is  
amended to read as follows:

- Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The  
commission shall establish recommended standards relating to the  
domestic use of harvested rainwater, including health and safety  
standards for treatment and collection methods for harvested  
rainwater intended for drinking, cooking, or bathing.
- \_(b)\_\_\_ \_\_ \_\_The commission by rule shall provide that if a  
structure \_\_\_  
is connected to a public water supply system and has a rainwater \_\_\_  
harvesting system for indoor use:
- \_(1)\_\_\_ \_\_ \_\_the structure must have appropriate \_\_\_  
cross-connection safeguards; and
- \_(2)\_\_\_ \_\_ \_\_the rainwater harvesting system may be used  
only \_\_\_  
for nonpotable indoor purposes.
- \_(c)\_\_\_ \_\_ \_\_Standards and rules adopted by the commission  
under this \_\_\_  
chapter governing public drinking water supply systems do not apply \_\_\_  
to a person:
- \_(1) who harvests rainwater for domestic use; and

(2) whose property is not connected to a public drinking water supply system.

SECTION 2.29. Subsection (b), Section 212.0101, Local Government Code, is amended to read as follows:

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

SECTION 2.30. Subsection (b), Section 232.0032, Local Government Code, is amended to read as follows:

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

SECTION 2.31. Chapter 401, Local Government Code, is amended by adding Section 401.006 to read as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 2.32. Subchapter Z, Chapter 402, Local Government Code, is amended by adding Section 402.911 to read as follows:

Sec. 402.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA

SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS.

(a) This section applies only to an area:

(1) that is located in a county that has a population

of more than 1.3 million; and

(2) in which a customer's sewer service is provided by

a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an

area to which this section applies, the water service provider shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users. Relevant customer information provided

under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water

service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that

are

in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service.

The notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water Code.

SECTION 2.33. Section 430.003, Local Government Code, is amended to read as follows:

Sec. 430.003. EXEMPTIONS OF CERTAIN [STATE] PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or [of] facilities for the control of excess water or storm water.

SECTION 2.34. Section 1903.053, Occupations Code, is amended to read as follows:

Sec. 1903.053. STANDARDS. (a) The commission shall adopt by rule and enforce standards governing:

- (1) the connection of irrigation systems to any water supply;
- (2) the design, installation, and operation of irrigation systems;
- (3) water conservation; and
- (4) the duties and responsibilities of licensed irrigators.

(b) [The commission may adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.

[(c)] The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any

particular brand or manufacturer.

\_(c) \_ \_ \_In adopting standards under this section, the \_  
\_commission shall consult the council.\_

SECTION 2.35. (a) In this section, "board" means the Texas  
Water Development Board.

(b) The board, in coordination with the Far West Texas  
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 submit  
to the legislature a written report regarding the study findings  
under this section.

SECTION 2.36. (a) Chapter 9, Water Code, is repealed.

(b) The Texas Water Advisory Council is abolished on the  
effective date of this article.

SECTION 2.37. Chapter 64, Water Code, is repealed.

SECTION 2.38. As soon as practicable on or after the  
effective date of this article, the Texas Water Development Board  
shall appoint the initial members of the Water Conservation  
Advisory Council, as required by Section 10.003, Water Code, as  
added by this article. In making the initial appointments, the  
board shall designate seven members to serve terms expiring August  
31, 2009, eight members to serve terms expiring August 31, 2011, and  
eight members to serve terms expiring August 31, 2013.

SECTION 2.39. The changes made by this Act to Section  
13.2451, Water Code, apply only to:

(1) an application for a certificate of public  
convenience and necessity or for an amendment to a certificate of  
public convenience and necessity submitted to the Texas Commission  
on Environmental Quality on or after the effective date of this Act;

(2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act;

(3) a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued;

(4) an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and

(5) a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

SECTION 2.40. Sections 15.102 and 17.125, Water Code, as amended by this article, and Sections 15.9751 and 16.1311, Water Code, as added by this article, apply only to an application for financial assistance filed with the Texas Water Development Board on or after the effective date of this article. An application for financial assistance filed before the effective date of this article is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.41. The change in law made by 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 2.42. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt standards as required by Section 1903.053, Occupations Code, as amended by this article, to take effect January 1, 2009.

SECTION 2.43. Section 2.27 of this article, adding Subsection (c-1), Section 447.004, Government Code, takes effect September 1, 2009.

### ARTICLE 3. CONSTRUCTION AND OPERATION OF RESERVOIRS

SECTION 3.01. Section 16.051, Water Code, is amended by adding Subsection (i) to read as follows:

\_(i) \_ \_ \_ For purposes of this section, the acquisition of fee \_  
\_ title or an easement by a political subdivision for the purpose of \_  
\_ providing retail public utility service to property in the \_  
\_ reservoir site or allowing an owner of property in the reservoir \_  
\_ site to improve or develop the property may not be considered a \_  
\_ significant impairment that prevents the construction of a \_  
\_ reservoir site under Subsection (g). A fee title or easement \_  
\_ acquired under this subsection may not be considered the basis for \_  
\_ preventing the future acquisition of land needed to construct a \_  
\_ reservoir on a designated site.\_

SECTION 3.02. Subchapter E, Chapter 16, Water Code, is amended by adding Sections 16.143 and 16.144 to read as follows:

Sec. 16.143. OPTION TO LEASE. (a) A former owner of real property used for agricultural purposes that was acquired, voluntarily or through the exercise of the power of eminent domain, for a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is entitled to lease the property from the person who acquired the property under terms that allow the former owner to continue to use the property for agricultural purposes until the person who acquired the property determines that such use must be terminated to allow for the physical construction of the reservoir. Consistent with Subsection (b), the lease is subject to the terms and conditions set forth by the person who has acquired the property that are related to the use of the property by the former owner, including the term of the lease, the rent the former owner is required to pay under the lease, and the uses that may be allowed on the property during the term of the lease.

(b) A former owner of real property used for agricultural purposes is entitled to lease the property for the property's agricultural rental value until the person who acquired the property determines that the lease must be terminated to allow for the physical construction of the reservoir.

Sec. 16.144. ENVIRONMENTAL MITIGATION.

(a) If a person proposing to construct a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is required to mitigate future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities, the person shall, if authorized by the applicable regulatory authority, attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner of real property located outside of the reservoir site to maintain the property through an easement instead of acquiring the fee simple title to the property for that purpose.

(b) An owner of real property may reject an offer made under Subsection (a). If agreement on the terms of an easement under Subsection (a) cannot be reached by the parties after a good faith attempt and offer is made, then the party constructing the reservoir may obtain fee title to the property through voluntary or involuntary means.

#### ARTICLE 4. UNIQUE RESERVOIR SITES AND SITES OF UNIQUE ECOLOGICAL VALUE

SECTION 4.01. Section 16.051, Water Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) Notwithstanding any other provisions of law, a site is considered to be a designated site of unique value for the construction of a reservoir if the site is recommended for designation in the 2007 state water plan adopted by the board and in effect on May 1, 2007. The designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make

\_expenditures necessary in order to construct or file applications \_  
\_for permits required in connection with the construction of the \_  
\_reservoir under federal or state law.\_

SECTION 4.02. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL VALUE. The legislature, as authorized by Subsection (f), Section 16.051, Water Code, designates those river or stream segment sites recommended in the 2007 state water plan as being of unique ecological value.

SECTION 4.03. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) This section applies only to the proposed Marvin Nichols and Lake Fastrill reservoirs.

(b) The right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir must be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) If one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, that entity or those entities must pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities located in the regional water planning area in which the reservoir is to be located begins diverting water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 4.04. STUDY COMMISSION ON REGION C WATER SUPPLY.

(a) The Study Commission on Region C Water Supply is established. The study commission consists of six members as follows:  
(1) three members appointed by the Region C Regional Water Planning Group; and  
(2) three members appointed by the Region D Regional Water Planning Group.  
(b) A member of the study commission may be, but is not required to be, a voting member of the regional water planning group that appointed the member.

(c) The members of the study commission shall select a presiding officer from among the members.

(d) Members of the study commission are not entitled to compensation for service on the study commission but may be reimbursed for travel expenses incurred while conducting the business of the study commission, as provided for in the General Appropriations Act.

(e) The study commission shall:

(1) review the water supply alternatives available to the Region C Regional Water Planning Area, including obtaining additional water supply from Wright Patman Lake, Toledo Bend Reservoir, Lake Texoma, Lake O' the Pines, other existing and proposed reservoirs, and groundwater;

(2) in connection with the review under Subdivision (1) of this subsection, analyze the socioeconomic effect on the area where the water supply is located that would result from the

use of the water to meet the water needs of the Region C Regional Water Planning Area, including:

(A) the effects on landowners, agricultural and natural resources, businesses, industries, and taxing entities of different water management strategies; and

(B) in connection with the use by the Region C Regional Water Planning Area of water from Wright Patman Lake, the effect on water availability in that lake and the effect on industries relying on that water availability;

(3) determine whether water demand in the Region C Regional Water Planning Area may be reduced through additional conservation and reuse measures so as to postpone the need for additional water supplies;

(4) evaluate measures that would need to be taken to comply with the mitigation requirements of the United States Army Corps of Engineers in connection with any proposed new reservoirs, including identifying potential mitigation sites;

(5) consider whether the mitigation burden described by Subdivision (4) of this subsection may be shared by the Regions C and D Regional Water Planning Areas in proportion to the allocation to each region of water in any proposed reservoir;

(6) review innovative methods of compensation to affected property owners, including royalties for water stored on acquired properties and annual payments to landowners for properties acquired for the construction of a reservoir to satisfy future water management strategies;

(7) evaluate the minimum number of surface acres required for the construction of proposed reservoirs in order to develop adequate water supply; and

(8) identify the locations of proposed reservoir sites and proposed mitigation sites, as applicable, as selected in accordance with existing state and federal law, in the Regions C and D Regional Water Planning Areas using satellite imagery with sufficient resolution to permit land ownership to be determined.

(f) The study commission may not be assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of the proposed Marvin Nichols reservoir.

(g) The Texas Water Development Board, on request of the study commission, may provide staff support or other assistance necessary to enable the study commission to carry out its duties.

The Texas Water Development Board shall provide funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.

(h) Not later than December 1, 2010, the study commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives that includes:

(1) any studies completed by the study commission;

(2) any legislation proposed by the study commission;

(3) a recommendation as to whether Marvin Nichols should remain a designated reservoir site; and

(4) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section

expires December 31, 2011.

SECTION 4.05. EFFECTIVE DATE. This article takes effect immediately if this Act 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 article takes effect September 1, 2007.

ARTICLE 5. LEGISLATIVE JOINT INTERIM COMMITTEE

SECTION 5.01. (a) In this section, "committee" means the joint interim committee on state water funding.

(b) The committee is composed of eight members as follows:

(1) the chair of the Senate Committee on Natural Resources and the chair of the House Committee on Natural Resources who shall serve as joint chairs of the committee;

(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) An appointed member of the committee serves at the pleasure of the appointing official.

(d) The committee shall meet at least annually with the executive director of the Texas Commission on Environmental Quality and the executive administrator of the Texas Water Development Board to:

(1) receive information on water infrastructure needs as identified in the state water plan;

(2) receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan;

(3) receive analyses of the funding gap and recommendations on how to address those funding needs;

(4) receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities; and

(5) identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.

(e) The committee may hold hearings and may request reports and other information from state agencies as necessary to carry out this section.

(f) The Senate Committee on Natural Resources and the House Committee on Natural Resources shall provide staff necessary for the committee to fulfill its duties.

(g) Not later than December 1, 2008, the committee shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's activities under Subsection (d) of this section. The report shall include recommendations of any legislative action necessary to address funding needs to support the state's water programs and water infrastructure needs.

ARTICLE 6. WATER DEVELOPMENT BOARD

SECTION 6.01. Section 16.344, Water Code, is amended by adding Subsections (d) through (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a),

a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take

the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d) (4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d)-(f), if the board

determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), and (h) and this

subsection expire September 1, 2009.

ARTICLE 7. RATE CLASSES FOR BILLING

SECTION 7.01. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2122 to read as follows:

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES.

(a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

(1) the similarity of the type of customer to other

customers in the class, including:

(A) residential;

(B) commercial;

(C) industrial;

(D) apartment;

(E) rental housing;

(F) irrigation;

(G) homeowner associations;

(H) builder;

(I) out-of-district;

(J) nonprofit organization; and

(K) any other type of customer as determined by

the district;

(2) the type of services provided to the customer class;

(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security, recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

ARTICLE 8. STUDY OF ROLE OF LAKE SOMERVILLE IN ECONOMIC DEVELOPMENT

SECTION 8.01. The legislature finds that:

(1) in 1954, the United States Congress authorized the construction of Lake Somerville to provide flood control, water conservation, and other beneficial uses for nearby areas; subsequently, the United States Army Corps of Engineers began reservoir construction in 1962 and began to impound water in 1967;

(2) straddling the borders of Burleson, Washington, and Lee Counties, on Yegua Creek 20 river miles upstream from that creek's confluence with the Brazos River, the lake has a storage capacity of 337,700 acre-feet;

(3) operation of the lake is supervised by the Fort Worth District of the United States Army Corps of Engineers; the

lake is one of nine federal reservoirs that are integrated into the Brazos River Authority's basin-wide system and associated water resource development master plan;

(4) the Brazos River Authority owns the stored water, a source from which it furnishes supplies to the City of Brenham according to a contract that was last renewed for a 10-year period in 2003;

(5) also significantly involved in the region is the Lower Colorado River Authority, which, from its diverse mix of power plants, provides wholesale electricity to various communities as well as offering them its economic research and expertise;

(6) although Lake Somerville has long been a tourist destination for fishing and other water recreation, the facility has not fully effectuated the three-county economic impact that originally was expected at the time that it was built; and

(7) a study of Lake Somerville's role in economic development would assist in explaining why the lake has not yet had that impact, beyond the tourism industry, and would help to identify impediments that currently restrict its contribution as well as strategies that would better maximize its economic potential.

SECTION 8.02. The Brazos River Authority and the Lower Colorado River Authority shall:

(1) conduct, with appropriate input from the public and private sectors, a joint baseline study of the role of Lake Somerville in the economic development of the surrounding vicinity; and

(2) jointly submit a full report of their findings and recommendations to the 81st Legislature when that legislature convenes in January 2009.

#### ARTICLE 9. AGUA SPECIAL UTILITY DISTRICT

SECTION 9.01. The heading to Chapter 7201, Special District Local Laws Code, is amended to read as follows:

CHAPTER 7201. AGUA [LA JOYA] SPECIAL UTILITY DISTRICT

SECTION 9.02. Section 7201.001, Special District Local Laws Code, is amended by amending Subdivision (3) and adding Subdivision (4) to read as follows:

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

(4) "District" means the Agua [La Joya] Special Utility District.

SECTION 9.03. Subsection (c), Section 7201.002, Special District Local Laws Code, is amended to read as follows:

(c) The [On the effective date of the Act enacting this chapter, the] corporation shall be dissolved and succeeded without interruption by the district as provided by Subchapter A1.

SECTION 9.04. Section 7201.005, Special District Local Laws Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The [boundaries of the corporation and initial boundaries of the] district is composed of the territory described by Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection [are coextensive with the service areas covered by Certificates of Convenience and Necessity

Nos. 10559 and 20785, as recorded on the Texas Commission on Environmental Quality maps associated with those certificates. Those maps are incorporated in this section by reference].

(b) The boundaries and field notes contained in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection form a closure. A mistake made in the field notes or in copying the field notes in the legislative process [preparation, copying, or filing of the maps described by Subsection (a) and on file with the Texas Commission on Environmental Quality] does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to issue bonds; or
- (3) the legality or operation of the district.

(d) The territory of the district does not include and the district does not have jurisdiction over land that has never been in the service area of the corporation regardless of any erroneous inclusion of that land in the boundaries and field notes in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section.

SECTION 9.05. Section 7201.021, Special District Local Laws Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (f) to read as follows:

(a) Except as provided by this subsection, after the appointment of initial directors under Section 7201.051, the receiver for the corporation [On the effective date of the Act enacting this chapter, the corporation] shall transfer the assets, debts, and contractual rights and obligations of the corporation, including all legal claims against the corporation in effect on the date of the transfer, to the district and provide notices and make recordings of the transfer required by the Water Code and general law. If the transfer of any debt requires the permission of the lender, the receiver shall initiate proceedings to obtain that permission.

(b) In accordance with the orders of the receivership court and not [Not] later than the 30th day after the date of the transfer under Subsection (a), the receiver for [board of directors of] the corporation shall commence dissolution proceedings of the corporation.

(d) The receiver for [board of directors of] the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and its succession in interest by [the creation of] the district in order [to replace it] to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) After the Texas Commission on Environmental Quality takes the action required by Subsection (e), the court shall terminate the receivership.

SECTION 9.06. Section 7201.022, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012 [2008].

SECTION 9.07. Section 7201.051, Special District Local Laws

Code, is amended to read as follows:

Sec. 7201.051. APPOINTMENT OF INITIAL [TEMPORARY] DIRECTORS. (a) As soon as practicable after the effective date of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section, seven initial directors shall be appointed as provided by this section [The directors of the corporation who hold office on the effective date of the Act enacting this chapter shall serve as the temporary directors of the district until successor directors are elected and qualify for office].

(b) To be eligible to be appointed as an initial director, an individual must meet the same requirements as a candidate for an elected position as director under Section 7201.052. The initial directors shall be appointed as follows:

(1) one director to represent the residents of the district in the City of Mission appointed by the governing body of that city;

(2) one director to represent the residents of the district in the City of Palmview appointed by the governing body of that city;

(3) one director to represent the residents of the district in the City of Penitas appointed by the governing body of that city;

(4) one director to represent the residents of the district in the City of Sullivan City appointed by the governing body of that city; and

(5) three directors to represent the residents of the district outside the municipalities listed in Subdivisions (1)-(4) appointed by the Hidalgo County Commissioners Court [The temporary directors of the district are assigned position numbers as follows:

- [(1) Position 1, Jose Luis Trigo;
- [(2) Position 2, Jose Guadalupe Reyna;
- [(3) Position 3, George Barreiro;
- [(4) Position 4, Frolian Ramirez;
- [(5) Position 5, Russell Wicker;
- [(6) Position 6, Benito Salinas;
- [(7) Position 7, Manuel Ricardo Garcia;
- [(8) Position 8, Valente Alaniz, Jr.; and
- [(9) Position 9, Juan Lino Garza].

(c) An initial director serves a term that expires on June 1 of the year in which the director's successor is elected under Section 7201.052 [If there is a vacancy on the temporary board of directors of the district, the temporary board shall appoint a person to fill the vacancy for the remainder of the term for the vacated position until the applicable election under Section 7201.052].

SECTION 9.08. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.0512 and 7201.0513 to read as follows:

Sec. 7201.0512. INITIAL BOARD TRAINING.

(a) Not later than the 60th day after the first date on which all of the initial directors have been appointed, each initial director shall complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) The district shall reimburse an initial director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM.

(a) Before the first election of directors under Section 7201.052, the initial board shall establish a program of education for directors that includes information on:

- (1) the history of the district;
- (2) the district's enabling legislation;
- (3) Chapters 49 and 65, Water Code, and other laws that apply to the district, including the requirements of the:
  - (A) open meetings law, Chapter 551, Government Code; and
  - (B) public information law, Chapter 552, Government Code;
- (4) relevant legal developments related to water district governance;
- (5) the duties and responsibilities of the board;
- (6) the requirements of conflict of interest laws and other laws relating to public officials; and
- (7) any applicable ethics policies adopted by the Texas Commission on Environmental Quality or the Texas Ethics Commission.

(b) The district shall pay any costs associated with the development of the education program from district revenue.

(c) The education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) The board may adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 9.09. Section 7201.052, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.052. BOARD OF DIRECTORS. (a) Except as provided by Subsection (1), the [The] district shall be governed by a board of seven [not fewer than nine and not more than 11] directors, elected as follows:

(1) one director elected by the voters of the part of the City of Mission inside the district to represent that part of the city;

(2) one director elected by the voters of the

City of \_  
\_Palmview to represent that city;\_  
\_ (3) \_ \_ \_ one director elected by the voters of the  
City of \_  
\_Penitas to represent that city;\_  
\_ (4) \_ \_ \_ one director elected by the voters of the  
City of \_  
\_Sullivan City to represent that city; and\_  
\_ (5) \_ \_ \_ three directors elected at-large to numbered \_  
\_positions on the board by the district voters who do not reside in \_  
\_any of the municipalities listed in Subdivisions (1)-(4) to \_  
\_represent the part of the district that is not included in those \_  
\_municipalities, unless the number of at-large directors is \_  
\_increased under Subsection (1) \_ [in accordance with Section 49.103,  
\_Water Code, notwithstanding Subsection (f) (2) of that section].  
\_ (b) \_A \_ [Except for a temporary director under Section  
\_7201.051, a] candidate for \_one of the numbered \_ [a position as]  
\_director \_positions\_:  
\_ (1) \_ [is elected at large to represent the entire  
\_service area of the district;  
\_ [(2)] \_ must reside in the \_part of the \_ service area of  
\_the district \_that is not included in any of the municipalities \_  
\_listed in Subsections (a) (1)-(4) \_; and  
\_ (2) \_ [(3)] \_ must be eligible to hold office under  
\_Section 141.001, Election Code.  
\_ (c) \_A candidate for one of the director positions \_  
\_representing a municipality listed in Subsection (a) (1), (2), (3), \_  
\_or (4)\_:  
\_ (1) \_ \_ \_ must reside in the municipality the candidate \_  
\_seeks to represent; and  
\_ (2) \_ \_ \_ must be eligible to hold office under Section \_  
\_141.001, Election Code.  
\_ (d) \_ It is the policy of the district that the directors  
\_shall represent and reside in as broad a cross-section of the  
\_geographic area of the district as possible.  
\_ (e) \_ [(d)] \_ The district shall fill a vacancy on the board in  
\_accordance with Section 49.105, Water Code.  
\_ (f) \_ [(e)] \_ Except for the \_initial \_ [temporary] directors  
\_appointed \_ [listed] under Section 7201.051 \_or elected at the first \_  
\_election under Subsection (g)\_, directors serve staggered terms of \_  
\_four \_ [three] years.  
\_ (g) \_ [(f)] \_ On the uniform election date in May \_2008, or in \_  
\_May 2010, if the election is postponed under Subsection (h), the \_  
\_district shall hold an election to elect seven directors. On the \_  
\_[2006, and on that] uniform election date \_in May of each \_  
\_even-numbered \_ [every third] year after that date, the district  
\_shall hold an election to elect \_the appropriate number of \_ [three]  
\_directors [to serve in positions 1, 4, and 7].  
\_ (h) \_ \_ \_ The initial board by order may postpone until the \_  
\_uniform election date in May 2010 the first election for directors \_  
\_under Subsection (g) if the initial board determines that there is \_  
\_not sufficient time to comply with the requirements of law and to \_  
\_order the election of directors to be held on the first uniform \_  
\_election date specified by that subsection.\_

(i) The directors elected at the first election under Subsection (g) shall cast lots to determine which three directors shall serve terms expiring June 1 of the first even-numbered year after the year in which the directors are elected and which four directors shall serve terms expiring June 1 of the second even-numbered year after the year in which the directors are elected.

(j) A director may not serve consecutive terms.

(k) A person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

(l) If, before the expiration of the term of a director elected to represent a municipality under Subsection (a)(1), (2), (3), or (4), the district determines that all of the incorporated territory of the municipality is outside the boundaries of the district, the position immediately becomes an at-large numbered position to be filled at the next general election of the district in accordance with Subsections (a)(5) and (b) [(g) On the uniform election date in May 2007, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 2, 3, and 5.

[(h) On the uniform election date in May 2008, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 6, 8, and 9].

SECTION 9.10. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.053 and 7201.054 to read as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) The board shall elect from among its members one director to serve as district treasurer.

(b) The district treasurer shall comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS.

(a) Except for an initial director whose term expires in 2008, each director shall complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was appointed or elected.

(b) The district shall reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) A director who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

SECTION 9.11. Section 7201.206, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.206. RATES AND FEES FOR SERVICES. (a) The district, in connection with water or sewer retail public utility services, shall establish lifeline, senior citizen, or minimum

consumption level rates for services. The rate impact of such services shall be allocated on the basis of costs of services to achieve conservation principles, while securing necessary reserves for the payment of operating expenses, sinking funds, principal, interest, and debt coverage factors, and any other objective established by the district's annual budget.

(b) Chapter 395, Local Government Code, does not apply to

any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments.

(c) Notwithstanding Subsection (b), beginning on December 31, 2009, the district may not impose any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments unless the district readopts the fee, charge, or assessment or adopts a new fee, charge, or assessment in accordance with Chapter 395, Local Government Code. This subsection does not apply to a retail water or sewer rate adopted by the receiver or the district.

SECTION 9.12. (a) Except for the areas excluded under Subsection (b) of this section, the boundaries of the Agua Special Utility District are as follows:

Beginning at a point in the centerline of FM 495 (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road.

Thence due north approximately 1.0 miles to a point approximately 166 feet south of the centerline of Mile 2 Road and approximately .18 miles west of the intersection of Mile 2 Road and Inspiration Road

Thence follow west along a straight westerly line approximately 180 feet south of Mile 2 Road approximately .51 miles to a point in the centerline of Schubach Road.

Following westerly in a straight line approximately .78 miles to the centerline of Bentsen Palm Drive.

From the point at the centerline of Bentsen Palm Road continue westerly approximately .78 miles to a point at 26 15 00 latitude and -98 22 10 longitude.

Turn right and due north and follow approximately 7.0 miles in a northerly direction .10 miles west and parallel to Bentsen Palm Drive to a point at 226 21 04 latitude and -98 21 06 longitude.

Turn left and follow westerly along a straight line a distance of approximately 1.66 miles to the intersection of Abram Road and 9 Mile Road.

Follow along the centerline of 9 Mile Road westerly approximately 1.65 miles to its intersection with Iowa Avenue.

(Latitude: 26 21 31, Longitude: -98 24 16)

Continue westerly along a straight line from latitude 26 21 31, longitude -98 24 16 approximately 3.79 miles to the center line

of FM 2221 ( Jara Chinas Road)

Thence due south along FM 2221 ( Jara Chinas Road)  
approximate distance of 8.02 Miles to a point approximately .75  
miles north of the Intersection of Expressway 83 and FM 2221( Jara  
Chinas Road)

Thence at a distance of approximately .75 miles north of the  
centerline of Expressway 83 due west to northwest approximately 4  
miles following along the same contour as Expressway 83 to the  
centerline of El Faro Road from a point .62 miles east of the  
intersection of El Faro Road and Expressway 83.

Turn right and follow due north down the centerline of El Faro  
Road until its end and continue northerly for a total of  
approximately 2.79 miles to a point at latitude 26 19 13 and  
longitude -98 32 40.

Turn left and follow northwesterly in a straight line along  
the east side of 16 Mile Road (Starr County) approximately 1.87  
miles to a point located at 26 19 30 latitude and -98 34 27  
longitude.

Turn right and follow northeasterly in a straight line  
approximately 1.02 miles to a point located at 26 20 22 latitude and  
-98 34 17 longitude.

Turn right and follow southeasterly in a straight line  
approximately 1.26 miles to a point located at 26 20 22 latitude and  
-98 33 05 longitude.

Turn right and follow northeasterly in a straight line along  
the west side of County Line Road (Starr County) approximately .61  
miles to a point located at 26 20 43 latitude and -98 32 60  
longitude.

Turn left and follow northwesterly in a straight line  
approximately 1.26 miles to a point located at 26 20 53 latitude and  
-98 34 12 longitude.

Turn right and follow northeasterly in a straight line along  
the east side of 16 Mile Road (Starr County) approximately 1.32  
miles to a point located at 26 22 02 latitude and -98 33 59  
longitude.

Turn left and follow northwesterly in a straight line  
approximately .55 miles to a point located at 26 22 07 latitude and  
-98 34 30 longitude.

Turn left and follow southwesterly in a straight line  
approximately 6.17 miles to a point located at 26 16 48 latitude and  
-98 35 29 longitude.

Turn left and follow southeasterly in a straight line  
approximately .91 miles to a point located at 26 16 30 latitude and  
-98 34 40 longitude, near the Hidalgo-Starr County line.

Turn right and follow southwesterly along the Hidalgo-Starr  
County line approximately 1.28 miles to its intersection with the  
Rio Grande River (U.S. side).

Thence due south approximately 7.77 miles to the northern  
winding banks (U.S. side) of the Rio Grande River  
Thence east along the northern winding banks ( US side ) of  
the Rio Grande River approximately 22 miles to a point  
approximately 1.16 miles south of Greene Road

Thence from that center line on Bentsen Park Road  
approximately .82 miles east northeast to the centerline of

Breyfogle/Shuerbach Road

Turn left and follow westerly in a straight line approximately .56 miles to a point located 26 11 20 latitude and -98 22 30 longitude.

Turn left and follow southerly in a straight line approximately .50 miles to the centerline of Military Road.

Turn right and follow northerly and then northwesterly along the north side of Military Road approximately .36 miles to its intersection with Farm-to-Market Road 2062.

Turn left and follow southerly along Farm-to-Market Road 2062 approximately .16 miles to a point located at 26 11 02 latitude and -98 22 46 longitude.

Turn right and follow northerly, westerly, southerly, southwesterly, northerly, westerly and then southwesterly for approximately 1.27 miles to a point located at 26 11 11 latitude and -98 23 38 longitude running just north of Park Road 43.

Turn right and follow northeasterly along a straight line for approximately .71 miles to the north side of Military Road.

Turn left and follow along westerly approximately .44 miles along the north side of Military Road to its intersection with Goodwin Road.

Turn right and follow northerly along the centerline of Goodwin Road approximately .33 miles to a point located at 26 12 07 latitude and -98 23 53 longitude.

Turn right and follow easterly, northerly, easterly and then southeasterly approximately .78 miles to the intersection with Green Road.

Turn left and follow northerly along the centerline of Green Road approximately .32 miles.

Turn right and follow easterly and then southwesterly approximately 1.16 miles to the north side of Military Road at points 26 11 42 latitude and -98 23 16 longitude.

Turn left and follow southeasterly along the north side of Military Road approximately 0.07 miles to a point located at 26 11 40 latitude and -98 23 13 longitude.

Turn left and follow northeasterly, northerly, northeasterly, northerly, northeasterly, easterly, southerly and then easterly approximately 2.04 miles to the centerline of Shuebach Road/Airfield Road

Turn left and follow northeasterly along the centerline of Airfield Road approximately 1.48 miles to its intersection with U.S. Highway 83 Business.

Turn right and follow easterly along the centerline of U.S. Highway 83 Business approximately .27 miles to its intersection with Moorefield Road.

Turn left and follow northerly along the centerline of Moorefield Road approximately .32 miles to a point located at 26 13 23 latitude and -98 21 21 longitude.

Make a slight right and follow northeasterly and then northerly along the west banks of the Edinburg Main Canal approximately .66 miles to that point on the centerline of FM 495 the beginning (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road to Close.

(b) The territory of the Agua Special Utility District does

not include the area within the city limits of La Joya, Texas, as it existed on January 1, 1991; the area within the Certificate of Convenience and Necessity of Hidalgo County Municipal Utility District No. 1 as reflected on the records of the Texas Commission on Environmental Quality as of January 1, 2007; and the area within the following boundary lines, which lie wholly within the district: Beginning at a point located at 26 14 57 Latitude and -98 25 55 Longitude follow in a northwesterly direction along an unnamed creek approximately .23 Miles to a point located at 26 15 03 Latitude and -98 26 05 Longitude.

From the point located at 26 15 03 Latitude and -98 26 05 Longitude follow in a westerly direction along an unnamed creek approximately .24 Miles to a point located at 26 15 04 Latitude and -98 26 19 Longitude.

From the point located at 26 15 04 Latitude and -98 26 19 Longitude turn right and follow in a straight line northeasterly approximately .97 Miles to a point located at 26 15 54 Latitude and -98 26 09 Longitude.

From the point located at 26 15 54 Latitude and -98 26 09 Longitude turn right and follow in a straight line easterly-southeasterly approximately .43 Miles to a point located at 26 15 50 Latitude and -98 25 45 Longitude.

From a point located at 26 15 50 Latitude and -98 25 45 Longitude turn right and follow in a straight line southwesterly approximately 1.03 Miles to a point located at 26 14 57 Latitude and -98 25 55 Longitude and Place of Beginning.

SECTION 9.13. Initial directors of the board of the Agua Special Utility District shall be appointed in accordance with Section 7201.051, Special District Local Laws Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9.14. Except as otherwise provided by Chapter 7201, Special District Local Laws Code, as amended by this Act, the Agua Special Utility District is subject to:

(1) any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(2) any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that:

(A) results from a legal proceeding that is pending on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(B) is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

SECTION 9.15. (a) The legal notice of the intention to introduce the article of this Act that amends Chapter 7201, Special District Local Laws Code, setting forth the general substance of the article, has been published as provided by law, and the notice and a copy of the article 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 has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

SECTION 9.16. This article takes effect immediately if this Act 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 article takes effect September 1, 2007.

ARTICLE 10. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SECTION 10.01. 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 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 10.02 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 10.02 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 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 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.

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 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.

(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.

SECTION 10.02. 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 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 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 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 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 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:  
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 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  
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".

SECTION 10.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION 10.04. This article takes effect immediately if this Act 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 article takes effect September 1, 2007.

ARTICLE 11. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SECTION 11.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8823 to read as follows:

CHAPTER 8823. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8823.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Tablerock Groundwater Conservation District.

Sec. 8823.002. NATURE OF DISTRICT. The district is

a

groundwater conservation district in Coryell County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8823.003. CONFIRMATION ELECTION REQUIRED.

(a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012,

except that the district shall:

(A) pay any debts incurred;

(B) transfer to Coryell County any assets that

remain after the payment of debts; and  
(C) maintain the organization of the district

until all debts are paid and remaining assets are transferred; and  
(2) this chapter expires September 1, 2012.

(b) This section expires September 1, 2012.  
Sec. 8823.004. INITIAL DISTRICT TERRITORY. The initial

boundaries of the district are coextensive with the boundaries of  
Coryell County, Texas.

Sec. 8823.005. CONSTRUCTION OF CHAPTER. This chapter shall

be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8823.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8823.007-8823.020 reserved for expansion]

#### SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8823.021. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) Not later than the 45th day after the effective date of this

chapter, five temporary directors shall be appointed as follows:

(1) the Coryell County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Coryell County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial

directors as provided by Section 8823.024; or

(2) the date this chapter expires under Section 8823.003.

Sec. 8823.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Coryell County Courthouse.

Sec. 8823.023. CONFIRMATION ELECTION.

(a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a

confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the Tablerock Groundwater Conservation District and the imposition of a maintenance tax at a rate not to exceed two cents on each \$100 of assessed valuation of taxable property in the district."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may not impose a maintenance tax unless a majority of the votes cast at the election are in favor of the imposition of the maintenance tax.

Sec. 8823.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8823.023, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve until the election of directors under Section 8823.025, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve until the next regularly scheduled election of directors under Section 8823.053.

Sec. 8823.025. INITIAL ELECTION OF DIRECTORS. On the uniform election date in November of the first even-numbered year after the year in which the creation of the district is confirmed at an election held under Section 8823.023, the district shall hold an election of two directors to replace the initial directors who, under Section 8823.024(b), serve until that election.

Sec. 8823.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8823.027-8823.050 reserved for expansion]  
SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8823.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.  
Sec. 8823.052. METHOD OF ELECTING DIRECTORS. One director

is elected from each county commissioners precinct in Coryell County and one director is elected at large.

Sec. 8823.053. ELECTION DATE. The district shall hold an election in the district to elect directors on the uniform election date in November of each even-numbered year.

Sec. 8823.054. QUALIFICATIONS FOR ELECTION.

(a) To be qualified for election as a director, a person must reside in the district.

(b) To be qualified for election as a director from a precinct, a person must reside in that precinct.

[Sections 8823.055-8823.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8823.101. GROUNDWATER CONSERVATION DISTRICT POWERS

AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8823.102. REGISTRATION AND REPORTING REQUIREMENTS FOR

CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8823.103. WELL SPACING RULES; EXEMPTIONS.

(a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8823.104. ADOPTION OF RULES AND ISSUANCE OF PERMITS.

Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8823.105. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES.

(a) The district and another governmental entity, including a river authority located in the district, may contract for the

performance by that entity of a district function.  
(b) The district may accept a loan from Coryell County to pay for any initial costs of the district, including costs related to a confirmation election.

Sec. 8823.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8823.107. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to Coryell County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.  
[Sections 8823.108-8823.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS  
Sec. 8823.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) impose an ad valorem tax at a rate that:  
(A) is approved by a majority of district voters voting at an election held for that purpose; and  
(B) does not exceed two cents on each \$100

of assessed valuation of taxable property in the district;

(2) assess fees for services or for water withdrawn from nonexempt wells; or  
(3) solicit and accept grants from any private or public source.

[Sections 8823.152-8823.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION  
Sec. 8823.201. ELECTION FOR DISSOLUTION.

(a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for Coryell County.

(c) If the district is dissolved under this section,

the \_\_\_\_\_  
\_\_\_\_\_ board shall: \_\_\_\_\_  
\_\_\_\_\_(1) \_\_\_\_\_ notify the Texas Commission on Environmental \_\_\_\_\_  
\_\_\_\_\_ Quality and the secretary of state of the dissolution; and \_\_\_\_\_  
\_\_\_\_\_(2) \_\_\_\_\_ transfer title to any assets of the district \_\_\_\_\_  
\_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_ Coryell County. \_\_\_\_\_

SECTION 11.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

#### ARTICLE 12. EDWARDS AQUIFER AUTHORITY

SECTION 12.01. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) 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.

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

(1) each groundwater conservation district in the area

in which the recharge facility will be located;

(2) the mayor of each municipality in the area in which

the recharge facility will be located;

(3) the county judge of each county in the area in

which the recharge facility will be located; and

(4) each member of the legislature who represents the

area in which the proposed recharge facility will be located.

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

SECTION 12.02. 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 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 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.

SECTION 12.03. 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].

SECTION 12.04. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(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.

SECTION 12.05. 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 [or retirement as a means of complying with pumping reduction requirements under this article; or
  - [(4) retiring those rights, including those rights already permitted].

SECTION 12.06. 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]
- (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

Comal	San Marcos Springs Flow cfs	Index Well J-17 Level MSL
Critical Period Stage	Withdrawal Reduction-	San Antonio Pool
Springs Flow	San Marcos Springs Flow cfs	Index Well J-17 Level
MSL	Critical Period Stage	Withdrawal Reduction-
		San Antonio Pool

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

TABLE 2  
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE UVALDE POOL

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

(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 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 federally listed threatened 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) 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.

(b) 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, not later than December 31, 2007, in order to develop 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 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 Texas Commission on Environmental Quality, the Parks and Wildlife Department, the 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;

(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;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) 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;

(D) 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;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) 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

(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 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 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 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 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.\_\_

SECTION 12.07. 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 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 (c) 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.

SECTION 12.08. 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.

SECTION 12.09. 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.

SECTION 12.10. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

(1) the validity or implementation of this article; or  
(2) the groundwater withdrawal amounts recognized in Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended by 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 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.

SECTION 12.11. The change in law made by this article applies only to a cause of action filed on or after the effective date of this article. A cause of action that is filed before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 12.12. This article takes effect immediately if this Act 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 article takes effect September 1, 2007.

ARTICLE 13. TERRITORY OF CULBERSON COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 13.01. Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 3A to read as follows:

Sec. 3A. In addition to the portions of Culberson County included in the boundaries of the district on August 31, 2007, the boundaries of the district include all of the remaining territory in Culberson County.

SECTION 13.02. (a) The annexation under Section 3A, Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, as added by this article, of the additional territory in Culberson County that was not included in the boundaries of the Culberson County Groundwater Conservation District on August 31, 2007, is subject to ratification at an election held under Section 36.328, Water Code, and this section in which only the voters residing in the territory to be annexed are eligible to vote.

(b) The board of directors of the Culberson County Groundwater Conservation District shall hold the ratification election on the first uniform election date that occurs after the effective date of this article that allows for compliance with the time requirements of the Election Code.

(c) If a majority of the voters voting at the ratification election vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries include all of Culberson County.

(d) If a majority of the voters voting at the ratification election do not vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries are unchanged and this article expires.

ARTICLE 14. EFFECTIVE DATE

SECTION 14.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 3 passed the Senate on March 27, 2007, by the following vote: Yeas 30, Nays 0; May 24, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 1.

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Secretary of the Senate

I hereby certify that S.B. No. 3 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 133, Nays 8, one present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 113, Nays 28, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor