

Item 6 – 88th Legislative Session Update

The Texas Legislature convened January 10, 2023 for the 88th Legislative Session. There will be bills filed that will affect the management of groundwater. You will be made aware of any bills filed and have the opportunity as a board to not only discuss it but determine whether to support, oppose, or remain neutral on the filing.

The General Manager will be the District's envoy to the Legislature concerning the stance taken by the District. It has been customary for the board, once all bills have been filed, to review all bills affecting groundwater management in the District and take a position giving guidance to the General Manager as visits are made to the Capitol.

Many of the filed bills have been heard in committee and most now have a committee substitute addressing issues raised by stakeholders. The only bill on which we are currently engaged is HB 4532 by Rep. Kacal.

HB 4532 would develop a format to determine "sustainable modeled groundwater" that can be pumped into perpetuity and require GMAs to consider that modeled number when adopting DFCs. The definition for the modeled number would be the equilibrium of recharge and discharge. In other words, sustainable becomes $\text{Pumping} = \text{Recharge}$. In the case of BVGCD, the established and historical pumping within the District currently outstrips recharge and has for a very long time.

This is not in the best interest of stakeholders in BVGCD. I am currently working with Kacal's office to amend or pull the bill.

Attached is the Legislative Matrix as of April 4, 2023.

BILL	AUTHOR	STATUS	COMMENTS
SB156	Perry	<p>Filed 11/14/22 Senate Engrossed as filed 3/16/23 House received from Senate 3/20</p> <p>All changes are negotiated and acceptable other than Section 1 regarding attorney fees.</p>	<p>Relating to the regulation of groundwater conservation districts.</p> <p>Section 1 – Attorney Fees Section 36.066, Water Code, is amended by amending Subsection (g) and adding Subsection (i) to read as follows: (g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and the court may [shall] grant, in the interests of justice and as provided by Subsection (h), in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court. (i) <u>Notwithstanding Section 36.052(a), Subsections (g) and (h) of this section prevail over any other special law inconsistent with those subsections unless the other law prohibits an award of attorney's fees or costs.</u></p> <p>Section 2 – Petition for Rule Changes <u>Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with a real property interest in groundwater may petition the district where the property that gives rise to the real property interest is located to adopt a rule or modify a rule adopted under this chapter.</u> <u>(b) The district by rule shall prescribe the form for a petition submitted under this section and the procedure for the submission, consideration, and disposition of the petition.</u> <u>(c) Not later than the 90th day after the date the district receives the petition, the district shall:</u> <u>(1) deny the petition and provide an explanation for the denial; or</u> <u>(2) engage in rulemaking consistent with the granted petition.</u> (d) Nothing in this section may be construed to create a private cause of action for a decision to accept or deny a petition filed under this section.</p> <p>Section 3 – Management Plans Section 36.1071, Water Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows: (b) The management plan, or any amendments to the plan, shall: (1) be developed using the district's best available data and forwarded to the regional water planning group for use in their planning process; <u>and</u> (2) include the: (A) <u>most recently approved desired future conditions adopted under Section 36.108;</u> <u>and</u> (B) <u>amount of modeled available groundwater corresponding to the most recently approved desired future conditions.</u> (b-1) <u>A district shall amend a management plan before the second anniversary of the adoption of desired future conditions included under Subsection (b).</u> (b-2) <u>If a petition challenging the reasonableness of a desired future condition is filed under Section 36.1083(b), the executive administrator shall consider the management plan administratively complete if the</u></p>

			<p><u>district includes:</u></p> <p>(1) <u>the most recently approved desired future conditions adopted under Section 36.108;</u> (2) <u>the amount of modeled available groundwater corresponding to the desired future conditions;</u> (3) <u>a statement of the status of the petition challenging the reasonableness of a desired future condition; and</u> (4) <u>the information required by Subsections (a) and (c).</u></p> <p>Section 4 – Notice for Notice Required for Application For Permit or Permit Amendment <u>Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR PERMIT AMENDMENT. (a) Except as provided by Subsection (b), a district that has adopted rules regulating the spacing of wells under Section 36.116(a)(1) to require wells to be spaced a certain distance from other wells shall adopt rules requiring that notice of an application for a permit or permit amendment to drill a well or increase the production capacity of an existing well be provided to each landowner whose:</u></p> <p>(1) <u>land is located wholly or partly within the spacing distances from other wells under the spacing rules of the district; and</u> (2) <u>right to obtain a permit or permit amendment for a well of a certain size or location under the spacing rules of the district will be affected if the district approves the application.</u></p> <p><u>(b) Notice is not required under Subsection (a):</u></p> <p>(1) <u>for a replacement well to be drilled at or near the location of the well which it is intended to replace that has an equal or lesser production capacity than the well which it is intended to replace as determined by the rules of the district;</u> (2) <u>for an emergency well necessary to mitigate a loss of production capacity of an existing well as determined by the rules of the district;</u> (3) <u>if the notice is to be provided to the lessors of the right to produce groundwater from a property where the applicant for the permit or permit amendment is the lessee; or</u> (4) <u>if the district:</u></p> <p>(A) <u>posts in a place readily accessible to the public at the district's main office a list of the applications described by Subsection (a) that includes the name of the applicant and address or approximate location of the well or proposed well; and</u> (B) <u>posts on the home page of the district's Internet website, if the district operates an Internet website:</u></p> <p>(i) <u>a list described by Paragraph (A); or</u> (ii) <u>a link to a webApplication that includes the information included on a list described by Paragraph (A).</u></p>
SB638	Springer	Filed 1/26/23 Referred to Sen. Water 2/17/23	Relating to the procedures for acting on a permit or permit amendment application by a groundwater conservation district.

<p>HB1971</p>	<p>Ashby</p>	<p>Left pending in Sen Water 4/3 –lang will reflect HB1971 com sub</p> <p>Filed 2/07/23 Referred to HNR 3/08/23 HNR hearing 4/4</p> <p>To the right is the negotiated committee substitute.</p> <p>The Senate version will reflect the same.</p> <p>It deletes the previous concerning board language.</p> <p>It now only states that if a board has 10+ directors, a concurrence of majority is sufficient for board action. (Ch. 36 requires concurrence of majority of board for an action item to pass—regardless of number in attendance).</p>	<p>SECTION 1. Section 36.053, Water Code, is amended to read as follows: Sec. 36.053. QUORUM. (a) <u>Except as provided by Subsection (b), a [A] majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district.</u> (b) <u>For the purposes of making a final decision on a permit or permit amendment application by a board comprised of ten or more members, a concurrence of a majority of members eligible to vote is sufficient for taking action on the application.</u></p> <p>SECTION 2. Section 36.058, Water Code, is amended to read as follows: Sec.36.058. Conflicts of Interest. A director of a district is subject to the provisions of Chapters <u>171 and 176</u>, Local Government Code, relating to the regulation of conflicts of officers of local governments. <u>If a director is required to file an affidavit under Section 171.004(a), Local Government Code, the director may not attend any closed meeting related to the matter for which the director is required to file an affidavit and is required to abstain from voting unless a majority of the directors are likewise required to file and who do file affidavits of similar interests on the same official action.</u></p> <p>SECTION 3. Section 36.409, Water Code, is amended to read as follows: Sec. 36.409. CONTINUANCE. (a) The presiding officer may continue a hearing from time to time and from place to place without providing notice under Section 36.404. (b) If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties. (c) <u>A continuance may not exceed the time limit for the issuance of a final decision under Section 36.4165.</u></p> <p>SECTION 4. Section 36.411, Water Code, is amended to read as follows: Sec. 36.411. BOARD ACTION. (a) The board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. (b) <u>The board shall ensure a decision on a permit or permit amendment application is timely rendered in accordance with the provisions set forth in this chapter.</u></p> <p>SECTION 5. Section 36.412, Water Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (b-1) to read as follows: (a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may administratively appeal a decision of the board on a permit or permit amendment application <u>by making a request in writing to the board.</u> (a-1) <u>A party seeking to appeal a decision by the board must request [by requesting] written findings of fact and conclusions of law not later than the 20th day after the date of the board's decision unless the board issued findings of fact and conclusions of law as part of the final decision.</u> (b) On receipt of a timely written request <u>under Subsection (a-1)</u>, the board shall make written findings of fact and conclusions of law regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings of fact and conclusions of law to the person who requested them, and to each designated party, not later than the 35th day after the date the board receives the request.</p>
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HB2119	Dorazio	<p>Filed 1/26/23 Referred to HNR 3/09/23</p> <p>This bill requires loser pay attorney fees to prevailing party.</p>	<p>Relating to the award of attorney's fees in certain suits involving a groundwater conservation district.</p> <p>SECTION 1. Sections 36.066(g) and (h), Water Code, are amended to read as follows:</p> <p>(g) <u>Except for</u> [If the district prevails in any suit other than] a suit in which a district [#] voluntarily intervenes, the <u>prevailing party in a suit governed by this section</u> [district] may seek and the court shall grant, in the interests of justice and as provided by Subsection (h), in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the <u>prevailing party</u> [district] before the court. The amount of the attorney's fees shall be fixed by the court.</p>

		If GCD gets sued and loses in court, this would require GCD to pay plaintiff's attorney fees.	(h) The court shall award to a prevailing party that [If the district] prevails on some, but not all, of the issues in the suit [, the court shall award] attorney's fees and costs only for those issues on which the party [district] prevails. The <u>prevailing party</u> [district] has the burden of segregating the attorney's fees and costs in order for the court to make an award.
HB1852	Holland	Filed 2/03/23 Referred to HNR 3/07/23 Removes TCEQ authority to create GCDs and other water districts	Relating to the authority of the Texas Commission on Environmental Quality to issue an order to create a special district. Bill takes authority away from TCEQ to create GCDs under Chapter 36, water utility district under Chapter 49, Water Code, and Municipal Management Districts under Chapter 175, Local Govt Code. This bill would take away TCEQ's authority to create GCDs and other types of water utility districts. Only legislature would be allowed to create them. Many entities are against this, including developers as most water utility districts are created through TCEQ.
HB3278	Price	Filed 3/02/23 Referred to HNR 3/15/23 HNR hearing on 3/28 DFC adoption transparency	Relating to the joint planning of desired future conditions in groundwater management areas. Bill clarifies some DFC adoption information for public transparency and comment: SECTION 1. Section 36.108, Water Code, is amended by amending Subsections (d-2) and (d-3) and adding Subsection (d-2a) to read as follows: (d-2) *** After the close of the public comment period, the district shall compile <u>and submit to the district representatives</u> for consideration at the next joint planning meeting: (1) a summary of relevant comments received; (2) [] any suggested revisions to the proposed desired future conditions, and the basis for those [the] revisions; and (3) <u>any supporting materials, including new or revised groundwater availability model run results.</u> <u>(d-2a) The information compiled and submitted to the district representatives under Subsection (d-2) must be made available on a generally accessible Internet website maintained on behalf of the management area for not less than 30 days.</u> (d-3) After <u>each</u> [all the districts have submitted their] district <u>has submitted to the district representatives the information required under Subsection (d-2) and made the information available for the</u>

			<p><u>required period of time under Subsection (d-2a) [summaries], the district representatives shall reconvene for a joint planning meeting to review the information required under Subsection (d-2) [reports], consider any district's suggested revisions to the proposed desired future conditions, receive public comment, and finally adopt the desired future conditions for the management area. The desired future conditions must be approved by a resolution adopted by a two-thirds vote of all the district representatives not later than January 5, 2022. Subsequent desired future conditions must be proposed and finally adopted by the district representatives before the end of each successive five-year period after that date. The district representatives shall produce a desired future conditions explanatory report for the management area and submit to the development board and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:</u></p> <p style="text-align: center;">***</p> <p>(5) discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts <u>during the public comment period or at the joint planning meeting</u> were or were not incorporated into the desired future conditions.</p>
HB2443	Harris	<p>Filed 02/17/2023 Ref to HNR 3/13/23 HNR hearing 3/21/23 3/23 Voted out of HNR with Com. Sub. 3/23 HNR report sent to Calendars to be set for House Floor</p> <p>Bill addresses the ability to petition a GCD for rule changes. HNR Committee Substitute reflects agreed language in SB156.</p>	<p>Relating to the authority of certain persons to petition a groundwater conservation district to change certain rules.</p> <p>SECTION 1. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1025 to read as follows: <u>Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with a real property interest in groundwater may petition the district where the property that gives rise to the real property interest is located to adopt a rule or modify a rule adopted under this chapter.</u> <u>(b) The district by rule shall prescribe the form for a petition submitted under this section and the procedure for the submission, consideration, and disposition of the petition.</u> <u>(c) Not later than the 90th day after the date the district receives the petition, the district shall:</u> <u>(1) deny the petition and provide an explanation for the denial; or</u> <u>(2) engage in rulemaking consistent with the granted petition.</u> <u>(d) Nothing in this section may be construed to create a private cause of action for a decision to accept or deny a petition filed under this section.</u></p> <p>SECTION 2. Not later than December 1, 2023, a groundwater conservation district shall adopt rules to implement Section 36.1025, Water Code, as added by this Act.</p>
HB2735	King	<p>Filed 2/23/23 Ref to HNR 3/13/23</p> <p>Requires plaintiff to file security before contested case hearing</p>	<p>Relating to security required before filing suit against a groundwater conservation district.</p> <p>Bill requires a plaintiff who is suing the GCD to file a security or bond before filing the suit or contested case hearing of no more than \$100,000, to cover judgment for penalties or attorney fees.</p>

		<p>or lawsuit to cover potential awarded penalties or attorney fees</p>	<p>SECTION 1. Subchapter H, Chapter 36, Water Code, is amended by adding Section 36.2515 to read as follows:</p> <p><u>Sec. 36.2515. SECURITY REQUIRED. (a) In this section, "security" means a bond or deposit posted by a plaintiff before filing suit against a district or, as provided by the Texas Rules of Appellate Procedure, by a judgment debtor to a district to suspend execution of the judgment during appeal of the judgment.</u></p> <p><u>(b) Subject to Section 52.006, Civil Practice and Remedies Code, a district by rule shall establish the amount of security required to file suit under Section 36.251 challenging a rule or order made by the district, including an appeal of a decision on a permit application. Except as provided by Subsection (c), the amount of security required under this section may not exceed \$100,000.</u></p> <p><u>(c) The amount of security required to be posted by a party to a contested case hearing, other than by the applicant, for the appeal of a decision granting a permit application or permit amendment application under Section 36.251(b) shall be increased by an amount sufficient to cover the applicant's cost to defend the permit or amendment granted by the district against the suit and appeal. The amount of an increase under this subsection may not exceed \$100,000.</u></p> <p><u>(d) Section 52.006, Civil Practice and Remedies Code, applies to an appeal from a decision of the district court affirming a district's rule, order, or decision on a permit application. The amount of security required under this subsection must equal the sum of:</u></p> <ol style="list-style-type: none"> <u>(1) the amount of any civil penalty awarded;</u> <u>(2) interest for the estimated duration of the suit or appeal; and</u> <u>(3) attorney's fees and costs required for the district to defend against the suit and appeal.</u> <p><u>(e) A security required under this section must be filed into the registry of the district court in which the suit is filed.</u></p>
HB3059	King	<p>Filed 3/02/23 Ref to HNR 3/14/23 HNR hearing 3/28</p> <p>Raises export fees to 20 cents (from 2.5 cents for tax-based districts), with 3% annual inflation</p> <p>Addresses idea of using fees for mitigation, although does not use word "mitigation"</p>	<p>Relating to fees charged by a groundwater conservation district; authorizing an increase in the rate of a fee.</p> <p>SECTION 1. Section 36.122, Water Code, is amended by amending Subsection (e) and adding Subsections (e-1) and (e-2) to read as follows:</p> <p>(e) The district may impose an export fee or surcharge using one of the following methods:</p> <ol style="list-style-type: none"> (1) a fee negotiated between the district and the exporter; or (2) for a tax-based district, a rate not to exceed 20 cents [the equivalent of the district's tax rate per hundred dollars of valuation] for each thousand gallons of water exported from the district [or 2.5 cents per thousand gallons of water, if the district assesses a tax rate of less than 2.5 cents per hundred dollars of valuation]; or (3) for a fee-based district, a rate not to exceed the greater of 20 cents for each thousand gallons or a 50 percent surcharge, in addition to the district's production fee, for water exported from the district. <p>(e-1) Beginning on January 1, 2024, and annually thereafter, the maximum rate of 20 cents for each one thousand gallons of water exported that a district may impose under Subsections (e)(2) or (e)(3) shall automatically increase at a rate of three percent per year.</p>

		Districts with lower export fees in their enabling act may be able to use higher 36 export fee.	<p><u>(e-2) A district that is governed by a special law in regard to an export fee or surcharge on water exported from the district may charge an export fee or surcharge in accordance with that special law or in accordance with Subsections (e) and (e-1).</u></p> <p>SECTION 2. Section 36.207, Water Code, is amended to read as follows: Sec. 36.207. USE OF FEES. A district may use funds obtained from administrative, production, or export fees collected under a special law governing the district or this chapter for any purpose consistent with the district's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, expedite reductions in groundwater pumping or the development or distribution of alternative water supplies, <u>or to maintain the operability of wells significantly affected by groundwater development.</u></p>
HB3669	Rogers	Filed 3/06/2023 Ref to Land & Res. Mgmt 3/16/23 Com. Hearing 3/29	<p>Relating to the proceedings to exercise the power of eminent domain over certain real property owned by certain conservation and reclamation districts.</p> <p>SECTION 1. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1055 to read as follows: <u>Sec. 36.1055. GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN REAL PROPERTY OUTSIDE OF DISTRICT. (a) Governmental immunity of a district is waived with respect to a proceeding to exercise the power of eminent domain over real property owned by the district outside the boundaries of the district.</u> <u>(b) This section prevails over a special law governing a district or any other statute.</u></p> <p>SECTION 2. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2225 to read as follows: <u>Sec. 49.2225. GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN REAL PROPERTY OUTSIDE OF DISTRICT. (a) Governmental immunity of a district is waived with respect to a proceeding to exercise the power of eminent domain over real property owned by the district outside the boundaries of the district.</u> <u>(b) Notwithstanding Section 49.002, this section prevails over a special law governing a district or any other statute.</u></p>
SB1746	Perry	Filed 3/07/2023 Ref to Sen Water 3/16/23 Sen Water hearing 4/3 Voted out of Com.	<p>Relating to an exemption from the requirement to obtain a permit from a groundwater conservation district for certain temporary water wells.</p> <p>SECTION 1. Sections 36.117(b) and (d), Water Code, are amended to read as follows: (b) Except as provided by this section, a district shall provide an exemption from the district requirement to obtain a permit for: *** (2) drilling a water well used 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 provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig; or</p>

			<p>***</p> <p><u>(4) drilling a water well for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district.</u></p> <p>(d) A district may cancel a previously granted exemption and may require an operating permit for or restrict production from a well and assess any appropriate fees if:</p> <p>***</p> <p><u>(4) the groundwater withdrawals that were exempted under Subsection (b)(4) are no longer used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district.</u></p>
SB28	Perry	Ref to Sen Water 3/7 Sen Water Hearing 3/20/23 Voted out of Senate 4/3	<p>Relating to financial assistance provided and programs administered by the Texas Water Development Board.</p> <p>Adds Section to Chapter 15 of the Water Code (TWDB) to create the NEW WATER SUPPLY FOR TEXAS FUND</p> <p>TWDBto finance projects through the fund that will lead to the acquisition or creation of seven million acre-feet of new water supplies by December 31, 2033.</p> <p><u>Sec. 15.453. USE OF FUND. (a) The board by rule shall undertake to finance projects through the fund that will lead to the acquisition or creation of seven million acre-feet of new water supplies by December 31, 2033.</u></p> <p><u>(b) The fund may be used only to provide low-interest loans to political subdivisions and wholesale water providers to develop water supply projects that create new water sources for the state including:</u></p> <p><u>(1) the acquisition of water from other states;</u></p> <p><u>(2) the development of infrastructure to transport water from other states;</u></p> <p><u>(3) desalination projects, including marine and brackish water desalination;</u></p> <p><u>(4) produced water treatment projects; and</u></p> <p><u>(5) research into new technology that may lead to the development of significant new water supply sources, as determined by the board based on the amount of water the technology may produce.</u></p>
HB10	King	Ref to HNR 3/7	
HB3953	Zwiener	Filed 3/07/2023	<p>Relating to the adoption of a water conservation program by a county.</p> <p>Amends Chapter 562, Local Government Code, to allow County Commissioners Courts in a PGMA to adopt water conservation standards and water restrictions.</p>
HB3990	Kacal	Filed 3/08/2023 HNR hearing 3/28	<p>TWDB and TCEQ shall conduct a study to:</p> <p>(1) collect data from existing studies conducted on the interaction between surface water and groundwater in this state;</p> <p>(2) identify areas of the state where there is a lack of data or are inadequate models on the interaction between surface water and groundwater; and</p> <p>(3) determine a method to prioritize the development of enhanced modeling</p>

			<p>techniques to collect more data in areas with a strong degree of surface water and groundwater interaction, including conducting streamflow gain-loss studies where adequate data is lacking and increasing long-term monitoring of springflows.</p> <p>(b) The board and the commission may coordinate with groundwater conservation districts, groundwater management areas, river authorities, governmental entities, and institutions of higher education in collecting existing data and analyses on the interaction between surface water and groundwater in this state.</p> <p>December 1, 2024, deadline.</p>
HB3081	Harrison	Filed 3/01/2023	<p>Relating to the deregulation of certain activities and occupations. Repeals Title 9, Agriculture Code, which is the Weather Modification and Control program</p>
SB2291	Zaffirini	Filed 3/10/2023	<p>relating to the plugging of abandoned or deteriorated water wells; authorizing a fee.</p> <p>SECTION 1. Section 1901.053(a), Occupations Code, is amended to read as follows:</p> <p>(a) <u>Except as provided by Section 1901.258, the [The] department shall deposit money collected under this chapter to the credit of the water well drillers account in the general revenue fund. Money deposited in that account under this section may be used only to administer this chapter.</u></p> <p>SECTION 2. Section 1901.101(b), Occupations Code, is amended to read as follows:</p> <p>(b) One member appointed under Subsection (a)(1) must be selected from the state at large and the remaining five driller members must be selected from each of the following geographic areas of the state, <u>as defined by department rule:</u></p> <ol style="list-style-type: none"> (1) Gulf Coast area; (2) Trans-Pecos area; (3) Central Texas area; (4) Northeast Texas area; and (5) Panhandle-South Plains area. <p>SECTION 3. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.258 to read as follows:</p> <p><u>Sec. 1901.258. WATER WELL PLUGGING ACCOUNT. (a) The department may assess a fee for each well drilled in an amount determined by department rule for the purpose of plugging abandoned or deteriorated wells.</u></p> <p><u>(b) The department shall deposit a fee assessed under this section to the credit of the water well plugging account. The water well plugging account is an account in the general revenue fund that may be appropriated to the department only for the purpose of plugging abandoned or deteriorated wells. The account is exempt from the application of Section 403.095, Government Code.</u></p> <p><u>(c) The account consists of five subaccounts corresponding to the geographic areas described in Section 1901.101(b). The fee for each well drilled in a geographic area shall be deposited to the credit of the subaccount established for that geographic area. Fees in a subaccount may be used only to pay:</u></p>

			<p>(1) <u>the administrative costs of the department;</u> (2) <u>the costs of plugging high priority or hazardous wells, as defined by department rule, located anywhere in the state; and</u> (3) <u>the costs of plugging wells, other than high priority or hazardous wells, located in the geographic service area for which the subaccount was established.</u> (d) <u>The department may allocate not more than:</u> (1) <u>20 percent of the money in the account to pay the administrative costs of the department;</u> <u>and</u> (2) <u>10 percent of the money in the account to pay the costs of plugging high priority or hazardous wells.</u> (e) <u>The department may use money in the account to plug an abandoned or deteriorated well only if the department determines that the landowner or other person possessing the well:</u> (1) <u>cannot be located; or</u> (2) <u>does not have sufficient assets to plug the well as determined by criteria established by department rule.</u> (f) <u>The department may transfer money in a subaccount to a groundwater conservation district to be used by the district to plug one or more abandoned or deteriorated wells designated by the department if the department is entitled to use money in that subaccount to plug those wells. From the money transferred, the district may allocate not more than \$50 for each well to pay the district's administrative costs.</u> SECTION 4. The fee authorized by Section 1901.258, Occupations Code, as added by this Act, applies only to a water well for which initial drilling operations begin on or after the effective date of the rules adopted by the Texas Department of Licensing and Regulation providing for the assessment of the fee.</p>
HB4444	King	<p>Filed 3/09/2023 HNR hearing 3/28</p> <p>Concerns about added bed and banks permit language and added economically feasible/reasonable language</p>	<p>relating to the conservation and waste of groundwater.</p> <p>SECTION 1. Section 36.001, Water Code, is amended by amending Subdivisions (8) and (9) and adding Subdivision (32) to read as follows: (8) "Waste" means any one or more of the following: (A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes; (B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose; (C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater or from which the production of groundwater is not reasonably economically feasible; (D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground; (E) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit,</p>

			<p>rule, or order issued by the commission under Chapters 11 or 26;</p> <p>(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; [ø]</p> <p><u>(G) the production or use of that amount of groundwater in excess of that which is economically reasonable for an authorized purpose when reasonable intelligence and reasonable diligence are used in applying the groundwater to that purpose; or</u></p> <p><u>(H) drilling, completing, maintaining, or operating a well that does not comply with Chapter 1901, Occupations Code, or the rules of the Texas Department of Licensing and Regulation implementing that chapter [for water produced from an artesian well, "waste" also has the meaning assigned by Section 11.205].</u></p> <p>(9) "Use for a beneficial purpose" means use <u>that is made with reasonably efficient conservation practices</u> for:</p> <p>(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;</p> <p>(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or</p> <p>(C) any other <u>nonwasteful</u> purpose that is useful and beneficial to the user.</p> <p><u>(32) "Conservation" means those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.</u></p> <p>SECTION 2. Section 36.113(d), Water Code, is amended to read as follows:</p> <p>(d) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:</p> <p>***</p> <p>(6) the applicant has agreed to <u>and the proposed use of water will</u> avoid waste and achieve water conservation; and</p> <p>***</p> <p>SECTION 3. Section 11.042, Water Code, is amended by adding Subsection (e) to read as follows:</p> <p><u>(e) The commission may authorize a person to discharge groundwater into a watercourse or stream prior to its beneficial use for subsequent diversion and beneficial use through a bed and banks authorization under this section. The commission shall consider the expected carriage and other losses of the groundwater in light of the totality of circumstances involved in the project described in the application and shall grant, deny, or grant with special conditions the authorization on the basis of:</u></p> <p><u>(1) the reasonableness of the project under the circumstances when balanced with the need to achieve conservation and avoid waste; and</u></p> <p><u>(2) whether the application meets all other applicable requirements of this chapter and the rules of the commission.</u></p> <p>SECTION 4. Chapter 11, Subchapter F, is amended by adding Section 11.201 to read as follows:</p>
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HB4532	Kacal	Filed 3/09/2023 HNR hearing 3/28	<p>relating to the consideration of modeled sustained groundwater pumping in the adoption of desired future conditions in groundwater conservation districts.</p> <p>SECTION 1. Section 36.001, Water Code, is amended by adding Subdivision (32) to read as follows: <u>(32) "Modeled sustained groundwater pumping" means the maximum amount of groundwater that the executive administrator, using the best available science, determines may be produced annually in perpetuity from an aquifer.</u></p> <p>SECTION 2. Section 36.108, Water Code, is amended by amending Subsection (d) and adding Subsection (d-5) to read as follows: (d) Not later than May 1, 2021, and every five years thereafter, the districts shall consider groundwater availability models and other data or information for the management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-2), the districts shall consider: *** (3) hydrological conditions[, including] for each aquifer in the management area, <u>including:</u> <u>(A) the total estimated recoverable storage; [as provided by the executive administrator, and]</u> <u>(B) the average annual recharge, inflows, and discharge; and</u> <u>(C) if calculated by the executive administrator, the modeled sustained groundwater pumping;</u> *** <u>(d-5) Notwithstanding Subsection (d)(3), the executive administrator may not calculate the modeled sustained groundwater pumping for an aquifer or an aquifer that wholly or partly underlies an aquifer with a recharge rate such that an owner of land that overlies the aquifer qualifies or has previously qualified under federal tax law for a cost depletion deduction for the groundwater withdrawn from the aquifer for irrigation purposes.</u></p>
HB4891	Rogers	Filed 3/10/2023 HNR hearing 3/28	<p>relating to the adoption and achievement of desired future conditions for aquifers by groundwater conservation districts.</p> <p>SECTION 1. Section 36.1071(e), Water Code, is amended to read as follows:</p>

			<p>(e) In the management plan described under Subsection (a), the district shall:</p> <p style="text-align: center;">***</p> <p>(G) the projected total demand for water in the district according to the most recently adopted state water plan; and</p> <p>(4) consider the water supply needs and water management strategies included in the adopted state water plan; <u>and</u></p> <p>(5) <u>include a plain explanation of how the district is monitoring and tracking achievement of the desired future conditions established under Section 36.108 and how the district performed in achieving the desired future conditions over the previous five-year joint planning period.</u></p> <p>SECTION 2. Section 36.108, Water Code, is amended by amending Subsections (c) and (d-3) and adding Subsection (d-4) to read as follows:</p> <p>(c) The district representatives shall meet at least annually to conduct joint planning with the other districts in the management area and to review the management plans <u>of the districts and their implementation through the rules of the districts</u>, the accomplishments of the management area, and proposals to adopt new or amend existing desired future conditions. In reviewing the management plans, the districts shall consider:</p> <p style="text-align: center;">***</p> <p>(4) the degree to which each <u>district is achieving</u> management plan achieves the desired future conditions established during the joint planning process <u>through the implementation and enforcement of its management plan and rules.</u></p> <p>(d-3) After all the districts have submitted their district summaries, the district representatives shall reconvene to review the reports, consider any district's suggested revisions to the proposed desired future conditions, and finally adopt the desired future conditions for the management area. The desired future conditions must be approved by a resolution adopted by a two-thirds vote of all the district representatives not later than January 5, 2022. Subsequent desired future conditions must be proposed and finally adopted by the district representatives before the end of each successive five-year period after that date. The district representatives shall produce a desired future conditions explanatory report for the management area and submit to the development board and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:</p> <p style="text-align: center;">***</p> <p>(4) list other desired future condition options considered, if any, and the reasons why those options were not adopted; and</p> <p>(5) <u>for each desired future condition that changed from the corresponding one, if any, adopted for an aquifer in the previous five-year joint planning period, include a plain explanation of why the desired future condition was changed;</u></p> <p>(6) discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the desired future conditions; <u>and</u></p> <p>(7) <u>include a summary of how each district is achieving the desired future conditions through the implementation and enforcement of its management plan and rules.</u></p> <p>(d-4) <u>The district representatives and districts shall adopt desired future conditions under this section</u></p>
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HB5052	Gerdes	Filed 3/10/2023 HNR hearing 3/28	<p>relating to the criteria considered by groundwater conservation districts before granting or denying a permit.</p> <p>SECTION 1. Section 36.113(d), Water Code, is amended to read as follows:</p> <p>(d) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:</p> <p>***</p> <p>(2) the proposed use of water unreasonably affects:</p> <p>(A) existing groundwater and surface water resources; or</p> <p>(B) existing permit holders; or</p> <p>(C) wells that are exempt from the requirement to obtain a permit under this chapter</p> <p><u>or district rules;</u></p> <p>***</p>
HB5122	Lopez	Filed 3/10/2023 Ref to HNR 3/24	<p>Related to the production of water from a well</p> <p>SECTION 1. Section 36.117, Water Code, is amended by adding subsection (c-1) to read as follows:</p> <p>(c) A district may not restrict the production of water from any well described by Subsection (b)(1), <u>except as provided by Subsection (c-1).</u></p> <p><u>(c-1) A district may restrict the use of water from a well described by Subsection (b)(1) for the irrigation of turf grass or ornamental landscape.</u></p>
SB2362	Eckhardt	Filed 3/10/2023 Ref to Sen Water 3/23	<p>relating to establishing an advisory board to study surface water and groundwater interaction.</p> <p>SECTION 1. DEFINITION. In this Act, "advisory board" means the Surface Water and Groundwater Interaction Advisory Board.</p> <p>SECTION 2. SURFACE WATER AND GROUNDWATER INTERACTION ADVISORY BOARD ESTABLISHED. (a) The Surface Water and Groundwater Interaction Advisory Board is established and consists of 12 persons as follows:</p> <p>(1) the executive administrator of the Texas Water Development Board;</p> <p>(2) one person to represent the interests of the Texas Commission on Environmental Quality, recommended by the Texas Commission on Environmental Quality and appointed jointly by the chairs of the house natural resources committee and the senate water and rural affairs committee;</p>

			<p>(3) two persons to represent the interests of river authorities, recommended jointly by the Texas Commission on Environmental Quality and the Texas Water Development Board and appointed jointly by the chairs of the house natural resources committee and the senate water and rural affairs committee;</p> <p>(4) two persons to represent the interests of groundwater conservation districts, recommended jointly by the Texas Commission on Environmental Quality and the Texas Water Development Board and appointed jointly by the chairs of the house natural resources committee and the senate water and rural affairs committee;</p> <p>(5) two persons with academic or specialist knowledge in the area of surface water and groundwater interaction, with one appointed by the chair of the house natural resources committee and another appointed by the chair of the senate water and rural affairs committee;</p> <p>(6) one person to represent environmental interests or the interests relating to the interaction of surface water and groundwater, recommended jointly by the Texas Commission on Environmental Quality and the Texas Water Development Board and appointed jointly by the chairs of the house natural resources committee and the senate water and rural affairs committee;</p> <p>(7) the chair of the house natural resources committee;</p> <p>(8) the chair of the senate water and rural affairs committee; and</p> <p>(9) one person from the office of the governor, appointed by the governor.</p> <p>(b) The executive administrator of the Texas Water Development Board serves as the chair of the advisory board.</p> <p>SECTION 3. PUBLIC MEETING. The advisory board shall hold at least one public meeting in order to accept comments from the public on matters studied by the advisory board.</p> <p>SECTION 4. SURFACE WATER AND GROUNDWATER INTERACTION STUDY. (a) The advisory board shall study:</p> <ol style="list-style-type: none"> (1) the extent to which surface water and groundwater interact in this state; (2) challenges arising in this state from the interaction of surface water and groundwater; and (3) approaches to mitigating challenges arising in this state from the interaction of surface water and groundwater. <p>(b) In conducting the study under this section, the advisory board shall consult with:</p> <ol style="list-style-type: none"> (1) the Texas Commission on Environmental Quality; (2) groundwater conservation districts; and (3) river authorities. <p>SECTION 5. STUDY REPORT; EXPIRATION OF ACT. (a) The advisory board shall deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report on the determinations of the advisory board based on the study conducted under Section 4 of this Act not later than December 1, 2024. The advisory board shall deliver to the governor, the lieutenant governor, the speaker of the house of representatives, or a member of the legislature related information on request.</p>
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HB5302	Kacal	Filed 3/10/2023 HNR hearing 4/4	<p>relating to a petition for inquiry of a groundwater conservation district before the Texas Commission on Environmental Quality.</p> <p>SECTION 1. Section 36.3011, Water Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), (e-1), and (e-2) to read as follows:</p> <p>(d) If the petition is not dismissed under Subsection (c), the commission shall appoint a review panel consisting of a chairperson and four other members. A director or general manager of a district located outside the management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary <u>shall</u> may be an employee of the commission.</p> <p><u>(d-1) A member of the review panel is not entitled to a fee of office or other compensation for serving on the review panel, but is entitled to receive from the commission reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the review panel. In order to receive reimbursement for expenses, each review panel member shall file with the executive director a verified statement describing the expenses incurred and including any relevant receipts.</u></p> <p><u>(d-2) The review panel serves only in an advisory role to the commission. The review panel is not a governmental body under Chapters 551 or 552, Government Code. The records and documents of the recording secretary of the proceedings of the review panel prepared under Subsection (d) shall be provided to the executive director and are public information under Chapter 552, Government Code. The executive director shall provide notice of any public meeting or public hearing required under Subsection (e) upon request from the review panel not less than seven days prior to the date of the public meeting or public hearing by:</u></p> <ul style="list-style-type: none"> <u>(1) posting notice on the commission's Internet website;</u> <u>(2) providing notice by regular mail to:</u> <ul style="list-style-type: none"> <u>(A) the district that is the subject of the petition;</u> <u>(B) the petitioner; and</u> <u>(C) the county clerk of each county in the district.</u> <p><u>(e-1) The commission or the review panel may request assistance on technical issues involved in the petition from the Texas Water Development Board by submitting a written request to the executive administrator. The executive administrator shall provide the technical assistance requested through a written response no later than 120 days after receiving the request. A deadline set forth under Subsections (c), (e), or (h) is extended by 120 days if a request for technical assistance is submitted to the executive administrator during that phase of the petition review.</u></p> <p><u>(e-2) The office of public interest counsel shall provide legal advice and assistance to the review panel upon request from a member of the review panel. Notwithstanding Section 5.273 or any other law, the public interest counsel shall not participate as a party in an inquiry under this section and shall have no duties or responsibilities to represent the public interest or otherwise in an inquiry except as provided by this subsection.</u></p>
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