

Item 6 – Board Positions on 85th Legislative Session Bills

There have been several bills filed since the last Board meeting concerning groundwater. We will discuss each bill and develop a position (For, Against, Resource). This will guide staff during the session as these bills are moved and need to be addressed.

HB 2005 by Larson - Relating to the TWDB conducting studies of favorable locations for Aquifer Storage & Recovery projects.

HB 2215 by Price - Relating to adoption of DFCs and timing with the State Water Plan.

HB 2377 by Larson - Relating to development of brackish groundwater and rules for permits.

HB 2378 by Larson – Relating to the extension of expired permits for the transfer of groundwater from a groundwater district.

SB 862 by Perry – Relating to the award of attorney’s fees to the prevailing party – loser pays.

SB 865 by Perry – Relating to the groundwater conservation district’s use of electronic fund transfers.

SB 1009 by Perry – Relating to the administratively complete permits. District can only ask for items/information in an application process that is in Chap. 36 and GCD rules at time of application.

SB 1053 by Perry – Relating to an appeal of a DFC in a GMA. Changes DFC appeal process. Removes 36.1083 (the required SOAH appeal of DFC) and goes straight to District Court. Expands time frame to appeal.

The full text of each of the above bills follows.

BILL	AUTHOR	STATUS	ACTION REQUESTED	COMMENTS
HB 180	Lucio	Referred to HNR	Support	Restructures state auditor's audit of GCDs to financial only
HB 645	Lucio	Referred to HNR	Resource	<p>Amends Section 36.116(c)</p> <p>In regulating the production of groundwater based on tract size or acreage, a district shall may consider the service needs or service area of the [a] retail public utility that serves the territory where production is regulated by the district. For the purposes of this subsection, "retail public utility" has shall have] the meaning assigned provided by Section 13.002. A district may determine whether it is appropriate to base the production amount on a retail public utility's service needs or service area under this subsection.</p> <p><i>So "shall" consider the utility's service needs or area, but District has some discretion whether uses for production acreage purposes</i></p>
HB 898	Workman	filed		Amends the Vested Rights Act (Ch 245, Local Govt Code) to allow award of damages, attny fees, etc., if court determines govt/local govt violated Vested Rights Act.
HB 1318	Lucio	Referred to HNR	Resource	<p>Section 36.116(c), Water Code, is amended to read as follows:</p> <p>(c) In regulating the production of groundwater based on tract size or acreage, a district shall may consider the aggregate acreage owned by the retail public utility and the retail public utility's customers inside the district and may subtract permitted wells from that acreage [service needs or service area of a retail public utility]. For the purposes of this subsection, "retail public utility" has shall have the meaning assigned provided by Section 13.002.</p> <p><i>Requires GCDs to use utility's service area's water rights for production acreage requirements.</i></p>
HB 2005	Larson	Filed		TWDB to conduct studies of prepare and submit reports of most favorable locations for aquifer and storage recovery.
HB 2215	Price	Filed		Relating to adoption of DFCs and timing with the State Water Plan.
HB 2328	Lucio	Filed		Allows gov't entity to withhold protected documents in response to PIA request, without getting an AG opinion

HB 2377	Larson	Filed		Relating to the development of brackish groundwater
HB 2378	Larson	Filed		Relating to the extension of an expired permit for the transfer of groundwater from a groundwater conservation district
SB 189	Uresti	Referred to Ag/Water	Support	Requires TCEQ and RRC notice to GCDs regarding different types of injection well permit applications
SB 774	Perry	Referred to Ag/Water	Support	<p>Section 36.122, Water Code, is amended by adding Subsections (j-1) and (j-2) and amending Subsection (k) to read as follows:</p> <p>(j-1) A term under Subsection (i) or (j) shall automatically be extended on or before its expiration:</p> <p>(1) to a term that is not shorter than the term of an operating permit for the production of water to be transferred that is in effect at the time of the extension; and</p> <p>(2) for each additional term for which that operating permit for production is renewed under Section 36.1145 or remains in effect under Section 36.1146.</p> <p>(j-2) A permit automatically extended under Subsection (j-1) continues to be subject to conditions contained in the permit as issued before the automatic extension.</p> <p>(k) Notwithstanding the period specified under Subsection [in Subsections] (i), [and] (j), or (j-1) during which water may be transferred under a permit, a district may periodically review the amount of water that may be transferred under the permit and may limit the amount if additional factors considered in Subsection (f) warrant the limitation, subject to Subsection (c). ...</p> <p><i>Puts exports permit terms in line with production permits, if separate.</i></p>
SB 862	Perry	Referred to Ag/Water		Relating to the award of attorney's fees and other costs in certain proceedings involving a groundwater conservation district—loser pays
SB 865	Perry	Filed		Relating to a groundwater conservation district's use of electronic fund transfers.

By: Larson

H.B. No. 2005

A BILL TO BE ENTITLED

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AN ACT

relating to the duty of the Texas Water Development Board to conduct studies of and prepare and submit reports on aquifer storage and recovery.

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

SECTION 1. Section 11.155, Water Code, is amended to read as follows:

Sec. 11.155. AQUIFER STORAGE AND RECOVERY REPORTS. (a) The board shall make studies, investigations, and surveys of the aquifers in the state as it considers necessary to determine the occurrence, quantity, quality, and availability of aquifers in which water may be stored and subsequently retrieved for beneficial use.

(b) The board, working with appropriate interested persons, including groundwater conservation districts, regional water planning groups, and potential sponsors of aquifer storage and recovery projects, shall:

(1) conduct studies of aquifer storage and recovery projects identified in the state water plan or by interested persons; and

(2) report the results of each study conducted under Subdivision (1) to regional water planning groups and interested persons.

(c) This subsection expires January 1, 2019. The board

1 shall:

2 (1) conduct a statewide survey of the most favorable
3 areas for aquifer storage and recovery;

4 (2) prepare a report that includes an overview of the
5 survey conducted under Subdivision (1); and

6 (3) not later than December 15, 2018, submit the
7 report described by Subdivision (2) to the governor, lieutenant
8 governor, and speaker of the house of representatives. [The board
9 shall undertake the studies, investigations, and surveys in the
10 following order of priority:

11 [(1) areas designated by the commission as "priority
12 groundwater management areas" under Section 35.008; and

13 [(2) other areas of the state in a priority to be
14 determined by the board's ranking of where the greatest need
15 exists.]

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.

By: Price

H.B. No. 2215

A BILL TO BE ENTITLED

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AN ACT

2 relating to the adoption of desired future conditions for aquifers
3 in groundwater management areas and the consideration of those
4 conditions in the regional water planning process.

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

6 SECTION 1. Section 16.053(e), Water Code, as amended by
7 Chapters 756 (H.B. 2031), 990 (H.B. 30), and 1180 (S.B. 1101), Acts
8 of the 84th Legislature, Regular Session, 2015, is reenacted and
9 amended to read as follows:

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

12 (1) is consistent with the guidance principles for the
13 state water plan adopted by the development board under Section
14 16.051(d);

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

18 (2-a) is consistent with the desired future conditions
19 most recently adopted under Section 36.108 for the relevant
20 aquifers located in the regional water planning area, ~~[as of the~~
21 ~~date the board most recently adopted a state water plan under~~
22 ~~Section 16.051 or, at the option of the regional water planning~~
23 ~~group, established subsequent to the adoption of the most recent~~
24 ~~plan,]~~ provided, however, that if no groundwater conservation

1 district exists within the area of the regional water planning
2 group, the regional water planning group shall determine the supply
3 of groundwater for regional planning purposes; the Texas Water
4 Development Board shall review and approve, prior to inclusion in
5 the regional water plan, that the groundwater supply for the
6 regional planning group without a groundwater conservation
7 district in its area is physically compatible, using the board's
8 groundwater availability models, with the desired future
9 conditions adopted under Section 36.108 for the relevant aquifers
10 in the groundwater management area that are regulated by
11 groundwater conservation districts;

12 (3) identifies:

13 (A) each source of water supply in the regional
14 water planning area, including information supplied by the
15 executive administrator on the amount of modeled available
16 groundwater in accordance with the guidelines provided by the
17 development board under Subsections (d) and (f);

18 (B) factors specific to each source of water
19 supply to be considered in determining whether to initiate a
20 drought response;

21 (C) actions to be taken as part of the response;

22 and

23 (D) existing major water infrastructure
24 facilities that may be used for interconnections in the event of an
25 emergency shortage of water;

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

1 (5) includes but is not limited to consideration of
2 the following:

3 (A) any existing water or drought planning
4 efforts addressing all or a portion of the region and potential
5 impacts on public health, safety, or welfare in this state;

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

8 (C) all potentially feasible water management
9 strategies, including but not limited to improved conservation,
10 reuse, and management of existing water supplies, conjunctive use,
11 acquisition of available existing water supplies, and development
12 of new water supplies;

13 (D) protection of existing water rights in the
14 region;

15 (E) opportunities for and the benefits of
16 developing regional water supply facilities or providing regional
17 management of water supply facilities;

18 (F) appropriate provision for environmental
19 water needs and for the effect of upstream development on the bays,
20 estuaries, and arms of the Gulf of Mexico and the effect of plans on
21 navigation;

22 (G) provisions in Section 11.085(k)(1) if
23 interbasin transfers are contemplated;

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

27 (I) emergency transfer of water under Section

1 11.139, including information on the part of each permit, certified
2 filing, or certificate of adjudication for nonmunicipal use in the
3 region that may be transferred without causing unreasonable damage
4 to the property of the nonmunicipal water rights holder; and

5 (J) opportunities for and the benefits of
6 developing large-scale desalination facilities for:

7 (i) marine seawater that serve local or
8 regional entities; and

9 (ii) [~~(J) opportunities for and the~~
10 ~~benefits of developing large-scale desalination facilities for~~]
11 seawater or brackish groundwater that serve local or regional
12 brackish groundwater production zones identified and designated
13 under Section 16.060(b)(5);

14 (6) identifies river and stream segments of unique
15 ecological value and sites of unique value for the construction of
16 reservoirs that the regional water planning group recommends for
17 protection under Section 16.051;

18 (7) assesses the impact of the plan on unique river and
19 stream segments identified in Subdivision (6) if the regional water
20 planning group or the legislature determines that a site of unique
21 ecological value exists;

22 (8) describes the impact of proposed water projects on
23 water quality; and

24 (9) includes information on:

25 (A) projected water use and conservation in the
26 regional water planning area; and

27 (B) the implementation of state and regional

1 water plan projects, including water conservation strategies,
2 necessary to meet the state's projected water demands.

3 SECTION 2. Sections 36.108(d) and (d-3), Water Code, are
4 amended to read as follows:

5 (d) ~~The [Not later than September 1, 2010, and every five~~
6 ~~years thereafter, the]~~ districts shall consider groundwater
7 availability models and other data or information for the
8 management area and shall propose for adoption desired future
9 conditions for the relevant aquifers within the management area.
10 Before voting on the proposed desired future conditions of the
11 aquifers under Subsection (d-2), the districts shall consider:

12 (1) aquifer uses or conditions within the management
13 area, including conditions that differ substantially from one
14 geographic area to another;

15 (2) the water supply needs and water management
16 strategies included in the state water plan;

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

21 (4) other environmental impacts, including impacts on
22 spring flow and other interactions between groundwater and surface
23 water;

24 (5) the impact on subsidence;

25 (6) socioeconomic impacts reasonably expected to
26 occur;

27 (7) the impact on the interests and rights in private

1 property, including ownership and the rights of management area
2 landowners and their lessees and assigns in groundwater as
3 recognized under Section 36.002;

4 (8) the feasibility of achieving the desired future
5 condition; and

6 (9) any other information relevant to the specific
7 desired future conditions.

8 (d-3) After the earlier of the date on which all the
9 districts have submitted their district summaries or the expiration
10 of the public comment period under Subsection (d-2), the district
11 representatives shall reconvene to review the reports and [7]
12 consider any district's suggested revisions to the proposed desired
13 future conditions. Not later than January 5, 2022, the district
14 representatives shall [~~7~~ and] finally adopt the desired future
15 conditions for the management area. Subsequent desired future
16 conditions shall be proposed and finally adopted by the district
17 representatives before the end of each successive five-year period
18 after that date. The desired future conditions must be adopted as a
19 resolution by a two-thirds vote of all the district
20 representatives. The district representatives shall produce a
21 desired future conditions explanatory report for the management
22 area and submit to the development board and each district in the
23 management area proof that notice was posted for the joint planning
24 meeting, a copy of the resolution, and a copy of the explanatory
25 report. The report must:

26 (1) identify each desired future condition;

27 (2) provide the policy and technical justifications

1 for each desired future condition;

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

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

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

12 SECTION 3. To the extent of any conflict, this Act prevails
13 over another Act of the 85th Legislature, Regular Session, 2017,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.

By: Larson

H.B. No. 2377

A BILL TO BE ENTITLED

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AN ACT

relating to the development of brackish groundwater.

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

SECTION 1. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1015 to read as follows:

Sec. 36.1015. RULES FOR PERMITS IN BRACKISH GROUNDWATER PRODUCTION ZONES. (a) In this section, "designated brackish groundwater production zone" means an aquifer, subdivision of an aquifer, or geologic stratum designated under Section 16.060(b)(5).

(b) A district located over any part of a designated brackish groundwater production zone that receives a petition from a person with a legally defined interest in groundwater in the district shall adopt rules to govern the issuance of permits to withdraw brackish groundwater from a well in a designated brackish groundwater production zone for a project designed to treat brackish groundwater to drinking water standards. The district must adopt the rules not later than the 180th day after the date the district receives the petition. The rules must:

(1) allow withdrawals and rates of withdrawal of brackish groundwater from a designated brackish groundwater production zone not to exceed and consistent with the withdrawal amounts identified in Section 16.060(e);

(2) provide for a minimum term of 30 years for a permit

1 issued for a well that produces brackish groundwater from a
2 designated brackish groundwater production zone;

3 (3) allow reasonable monitoring of an aquifer,
4 subdivision of an aquifer, or geologic stratum adjacent to a
5 designated brackish groundwater production zone consistent with
6 those required for fresh groundwater production;

7 (4) allow the district to amend a permit issued under
8 rules adopted under this section following receipt of a report
9 requested under Subsection (c); and

10 (5) require from the holder of a permit issued under
11 rules adopted under this section reports that must include:

12 (A) the amount of brackish groundwater
13 withdrawn;

14 (B) the average monthly water quality of the
15 brackish groundwater withdrawn; and

16 (C) aquifer levels in both the designated
17 brackish groundwater production zone and in any aquifer,
18 subdivision of the aquifer, or geologic stratum for which the
19 permit requires monitoring.

20 (c) The district shall provide the reports required under
21 Subsection (b)(5) to the Texas Water Development Board. On request
22 from the district, the development board shall investigate and
23 issue a report on whether brackish groundwater withdrawals from the
24 designated brackish groundwater production zone are causing:

25 (1) significant aquifer level declines in an adjacent
26 freshwater aquifer that were not anticipated by the Texas Water
27 Development Board in the designation of the zone; or

1 (2) negative effects on quality of water in an
2 aquifer, subdivision of an aquifer, or geologic stratum.

3 (d) After receiving from the Texas Water Development Board a
4 report issued under Subsection (c) and after notice and hearing,
5 the district may:

6 (1) amend the applicable permit to establish a
7 production limit necessary to mitigate any negative effects
8 identified by the report;

9 (2) approve a mitigation plan that alleviates any
10 negative effects identified by the report; or

11 (3) both amend the permit to establish a production
12 limit and approve a mitigation plan.

13 SECTION 2. Section 36.1071(a), Water Code, is amended to
14 read as follows:

15 (a) Following notice and hearing, the district shall, in
16 coordination with surface water management entities on a regional
17 basis, develop a management plan that addresses the following
18 management goals, as applicable:

19 (1) providing the most efficient use of groundwater;

20 (2) controlling and preventing waste of groundwater;

21 (3) controlling and preventing subsidence;

22 (4) addressing conjunctive surface water management
23 issues;

24 (5) addressing natural resource issues;

25 (6) addressing drought conditions;

26 (7) addressing conservation, recharge enhancement,
27 rainwater harvesting, precipitation enhancement, or brush control,

1 where appropriate and cost-effective; ~~and~~

2 (8) addressing the desired future conditions adopted
3 by the district under Section 36.108; ~~and~~

4 (9) identifying goals for the development of brackish
5 groundwater desalination strategies in designated brackish
6 groundwater production zones.

7 SECTION 3. Section 36.108(d-2), Water Code, is amended to
8 read as follows:

9 (d-2) The desired future conditions proposed under
10 Subsection (d) must provide a balance between the highest
11 practicable level of groundwater production and the conservation,
12 preservation, protection, recharging, and prevention of waste of
13 groundwater and control of subsidence in the management area. The
14 desired future condition does not apply to brackish groundwater
15 production in designated brackish groundwater production zones.
16 This subsection does not prohibit the establishment of desired
17 future conditions that provide for the reasonable long-term
18 management of groundwater resources consistent with the management
19 goals under Section 36.1071(a). The desired future conditions
20 proposed under Subsection (d) must be approved by a two-thirds vote
21 of all the district representatives for distribution to the
22 districts in the management area. A period of not less than 90 days
23 for public comments begins on the day the proposed desired future
24 conditions are mailed to the districts. During the public comment
25 period and after posting notice as required by Section 36.063, each
26 district shall hold a public hearing on any proposed desired future
27 conditions relevant to that district. During the public comment

1 period, the district shall make available in its office a copy of
2 the proposed desired future conditions and any supporting
3 materials, such as the documentation of factors considered under
4 Subsection (d) and groundwater availability model run results.
5 After the public hearing, the district shall compile for
6 consideration at the next joint planning meeting a summary of
7 relevant comments received, any suggested revisions to the proposed
8 desired future conditions, and the basis for the revisions.

9 SECTION 4. This Act takes effect September 1, 2017.

By: Larson

H.B. No. 2378

A BILL TO BE ENTITLED

1

AN ACT

2 relating to extensions of an expired permit for the transfer of
3 groundwater from a groundwater conservation district.

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

5 SECTION 1. Section 36.122, Water Code, is amended by adding
6 Subsections (j-1) and (j-2) and amending Subsection (k) to read as
7 follows:

8 (j-1) A term under Subsection (i) or (j) shall automatically
9 be extended on or before its expiration:

10 (1) to a term that is not shorter than the term of an
11 operating permit for the production of water to be transferred that
12 is in effect at the time of the extension; and

13 (2) for each additional term for which that operating
14 permit for production is renewed under Section 36.1145 or remains
15 in effect under Section 36.1146.

16 (j-2) A permit automatically extended under Subsection
17 (j-1) continues to be subject to conditions contained in the permit
18 as issued before the automatic extension.

19 (k) Notwithstanding the period specified under Subsection
20 [in Subsections] (i), [and] (j), or (j-1) during which water may be
21 transferred under a permit, a district may periodically review the
22 amount of water that may be transferred under the permit and may
23 limit the amount if additional factors considered in Subsection (f)
24 warrant the limitation, subject to Subsection (c). The review

1 described by this subsection may take place not more frequently
2 than the period provided for the review or renewal of regular
3 permits issued by the district. In its determination of whether to
4 renew a permit issued under this section, the district shall
5 consider relevant and current data for the conservation of
6 groundwater resources and shall consider the permit in the same
7 manner it would consider any other permit in the district.

8 SECTION 2. The changes in law made by this Act apply only to
9 the term of a permit issued under Sections 36.122(i) and (j), Water
10 Code, that expires after September 1, 2017.

11 SECTION 3. This Act takes effect September 1, 2017.

By: Perry

S.B. No. 862

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the award of attorney's fees and other costs in certain
3 proceedings involving a groundwater conservation district.

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

5 SECTION 1. Sections 36.066(g) and (h), Water Code, are
6 amended to read as follows:

7 (g) In a suit to which [~~If~~] the district is a party, the
8 prevailing party [~~prevails in any suit other than a suit in which it~~
9 ~~voluntarily intervenes, the district~~] may seek and the court shall
10 grant, in the interests of justice and as provided by Subsection
11 (h), in the same action, recovery for attorney's fees, costs for
12 expert witnesses, and other costs incurred by the prevailing party
13 [~~district~~] before the court. The amount of the attorney's fees
14 shall be fixed by the court.

15 (h) If a party [~~the district~~] prevails on some, but not all,
16 of the issues in the suit, the court shall award attorney's fees and
17 costs only for those issues on which the party [~~district~~] prevails.
18 The prevailing party [~~district~~] has the burden of segregating the
19 attorney's fees and costs in order for the court to make an award.

20 SECTION 2. Section 36.102(d), Water Code, is amended to
21 read as follows:

22 (d) In [~~If the district prevails in~~] any suit to enforce the
23 district's [~~its~~] rules, the prevailing party [~~district~~] may seek
24 and the court shall grant against any party [~~person~~], in the same

1 action, recovery for attorney's fees, costs for expert witnesses,
2 and other costs incurred by the prevailing party [~~district~~] before
3 the court. The amount of the attorney's fees shall be fixed by the
4 court.

5 SECTION 3. The change in law made by this Act applies only
6 to a proceeding commenced on or after the effective date of this
7 Act. A proceeding commenced before the effective date of this Act
8 is governed by the law applicable to the proceeding immediately
9 before the effective date of this Act, and that law is continued in
10 effect for that purpose.

11 SECTION 4. This Act takes effect September 1, 2017.

By: Perry

S.B. No. 865

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a groundwater conservation district's use of electronic
3 fund transfers.

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

5 SECTION 1. Sections 36.151(b) and (c), Water Code, are
6 amended to read as follows:

7 (b) Disbursements, other than federal reserve wire
8 transfers or electronic fund transfers, shall be signed by at least
9 two directors, except the board may by resolution allow certain
10 employees of the district, or a combination of employees and
11 directors, to sign disbursements on behalf of the board. The board
12 may authorize payroll disbursements by electronic direct deposit.

13 (c) The board may by resolution allow disbursements to be
14 transferred by federal reserve wire system, or by electronic means,
15 to accounts in the name of the district or accounts not in the name
16 of the district.

17 SECTION 2. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2017.

By: Perry

S.B. No. 1009

A BILL TO BE ENTITLED

AN ACT

1
2 relating to administrative completeness requirements for permit
3 and permit amendment applications for groundwater conservation
4 districts.

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

6 SECTION 1. Section 36.113(c), Water Code, is amended to
7 read as follows:

8 (c) A district may require that only the following be
9 included in the permit or permit amendment application, as
10 applicable under the rules of the district:

11 (1) the name and mailing address of the applicant and
12 the owner of the land on which the well will be located;

13 (2) if the applicant is other than the owner of the
14 property, documentation establishing the applicable authority to
15 construct and operate a well for the proposed use;

16 (3) a statement of the nature and purpose of the
17 proposed use and the amount of water to be used for each purpose;

18 (4) a water conservation plan or a declaration that
19 the applicant will comply with the district's management plan;

20 (5) the location of each well and the estimated rate at
21 which water will be withdrawn;

22 (6) a water well closure plan or a declaration that the
23 applicant will comply with well plugging guidelines and report
24 closure to the commission; ~~and~~

1 (7) a drought contingency plan; and

2 (8) other information:

3 (A) included in a rule of the district in effect
4 on the date the application is submitted that specifies what
5 information must be included in an application for a determination
6 of administrative completeness; and

7 (B) reasonably related to an issue that a
8 district is authorized to consider under this chapter.

9 SECTION 2. Section 36.114(h), Water Code, is amended to
10 read as follows:

11 (h) An application is administratively complete if it
12 contains the [application requires] information set forth under [in
13 accordance with] Sections 36.113 and 36.1131. A district shall not
14 require that additional information be included in an application
15 for a determination of administrative completeness.

16 SECTION 3. This Act takes effect September 1, 2017.

By: Perry

S.B. No. 1053

A BILL TO BE ENTITLED

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AN ACT

relating to an appeal of a desired future condition in a groundwater management area.

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

SECTION 1. Section 36.10835, Water Code, is amended to read as follows:

Sec. 36.10835. JUDICIAL APPEAL OF DESIRED FUTURE CONDITION

~~[CONDITIONS]~~. (a) In this section:

(1) "Affected person" means, with respect to the management area in which the district is located:

(A) an owner of land in the management area;

(B) a groundwater conservation district or subsidence district in or adjacent to the management area;

(C) a regional water planning group with a water management strategy in the management area;

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

(E) a person with a legally defined interest in groundwater in the management area.

(2) "Development board" means the Texas Water Development Board.

(3) "District" means a district that is a party to an appeal under this section ~~[A final district order issued under Section 36.1083 may be appealed to a district court with~~

1 ~~jurisdiction over any part of the territory of the district that~~
2 ~~issued the order. An appeal under this subsection must be filed~~
3 ~~with the district court not later than the 45th day after the date~~
4 ~~the district issues the final order. The case shall be decided~~
5 ~~under the substantial evidence standard of review as provided by~~
6 ~~Section 2001.174, Government Code].~~

7 (b) A district's adoption of a desired future condition
8 under Section 36.108(d-4) may be appealed by an affected person to a
9 district court with jurisdiction over any part of the territory of
10 the district. An appeal must be filed with the district court not
11 later than the 120th day after the date of the adoption. The
12 pleadings must provide evidence that the desired future condition
13 adopted by the districts was unreasonable.

14 (c) Not later than the 10th day after receiving notice of
15 the appeal, the district shall submit a copy of the pleadings to the
16 development board. On receipt of the pleadings, the development
17 board shall conduct:

18 (1) an administrative review to determine whether the
19 desired future condition established by the district meets the
20 criteria in Section 36.108(d); and

21 (2) a study containing scientific and technical
22 analysis of the desired future condition, including consideration
23 of:

24 (A) the hydrogeology of the aquifer;

25 (B) the explanatory report provided to the
26 development board under Section 36.108(d-3);

27 (C) the factors described under Section

1 36.108(d); and

2 (D) any relevant:

3 (i) groundwater availability models;

4 (ii) published studies;

5 (iii) estimates of total recoverable
6 storage capacity;

7 (iv) average annual amounts of recharge,
8 inflows, and discharge of groundwater; or

9 (v) information provided in the petition or
10 available to the development board.

11 (d) Not later than the 120th day after the date of receiving
12 a copy of the pleadings, the development board shall complete and
13 deliver to the court the review and study required by Subsection
14 (c). The development board shall make available relevant staff as
15 expert witnesses if requested by the court.

16 (e) If the court finds that a desired future condition is
17 unreasonable, the court shall strike the desired future condition
18 and order the districts in the same management area as the district
19 that was a party to the appeal [~~received the petition~~] to reconvene
20 not later than the 60th day after the date of the court order in a
21 joint planning meeting for the purpose of revising the desired
22 future condition. The districts in the management area shall
23 follow the procedures in Section 36.108 to adopt new desired future
24 conditions applicable to the district that was a party to the appeal
25 [~~received the petition~~].

26 (f) [~~4b~~] A court's finding under this section does not
27 apply to a desired future condition that is not a matter before the

1 court.

2 SECTION 2. Section 36.1083, Water Code, is repealed.

3 SECTION 3. The change in law made by this Act applies to an
4 action filed on or after the effective date of this Act. An action
5 filed before the effective date of this Act is governed by the law
6 in effect on the date the action was filed, and the former law is
7 continued in effect for that purpose.

8 SECTION 4. This Act takes effect September 1, 2017.