

AN ACT

relating to the deadline for adoption of desired future conditions in groundwater conservation districts.

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

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

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

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

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

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

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

11 (3) identifies:

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

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

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

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

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

27 (5) includes but is not limited to consideration of

1 the following:

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

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

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

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

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

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

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

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

26 (I) emergency transfer of water under Section
27 11.139, including information on the part of each permit, certified

1 filing, or certificate of adjudication for nonmunicipal use in the
2 region that may be transferred without causing unreasonable damage
3 to the property of the nonmunicipal water rights holder; and

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

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

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

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

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

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

23 (9) includes information on:

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

26 (B) the implementation of state and regional
27 water plan projects, including water conservation strategies,

1 necessary to meet the state's projected water demands.

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

4 (d) Not later than May 1, 2021 [~~September 1, 2010~~], and
5 every five years thereafter, the districts shall consider
6 groundwater availability models and other data or information for
7 the management area and shall propose for adoption desired future
8 conditions for the relevant aquifers within the management area.
9 Before voting on the proposed desired future conditions of the
10 aquifers under Subsection (d-2), the districts shall consider:

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

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

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

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

23 (5) the impact on subsidence;

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

26 (7) the impact on the interests and rights in private
27 property, including ownership and the rights of management area

1 landowners and their lessees and assigns in groundwater as
2 recognized under Section 36.002;

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

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

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

1 After the close of the public comment period [~~hearing~~], the
2 district shall compile for consideration at the next joint planning
3 meeting a summary of relevant comments received, any suggested
4 revisions to the proposed desired future conditions, and the basis
5 for the revisions.

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

23 (1) identify each desired future condition;
24 (2) provide the policy and technical justifications
25 for each desired future condition;

26 (3) include documentation that the factors under
27 Subsection (d) were considered by the districts and a discussion of

1 how the adopted desired future conditions impact each factor;

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

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

9 (d-4) After [~~As soon as possible after~~] a district receives
10 notification from the Texas Water Development Board that the
11 desired future conditions resolution and explanatory report under
12 Subsection (d-3) are administratively complete, the district shall
13 adopt the applicable desired future conditions in the resolution
14 and report [~~that apply to the district~~].

15 SECTION 3. Section 36.108(d-5), Water Code, is repealed.

16 SECTION 4. To the extent of any conflict, this Act prevails
17 over another Act of the 85th Legislature, Regular Session, 2017,
18 relating to nonsubstantive additions to and corrections in enacted
19 codes.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 2215 was passed by the House on April 27, 2017, by the following vote: Yeas 143, Nays 1, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2215 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor