

By: Williams

S.B. No. 2489

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the San Jacinto River Authority to implement a groundwater reduction plan for the conservation of groundwater and the reduction of groundwater withdrawals in Montgomery County, and to issue bonds of the authority.

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

SECTION 1. Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, is amended by adding Sections 11 through 11M to read as follows:

Sec. 11. GROUNDWATER REDUCTION PLANNING AUTHORITY.
Consistent with the purposes of Section 59, Article XVI, Texas
Constitution, and in addition to all rights, powers, privileges,
authority, and functions conferred by other sections of this Act,
the authority is authorized to provide for the conservation,
preservation, protection, recharge, and prevention of waste of
groundwater and for the reduction of groundwater withdrawals by
developing, implementing, and enforcing a groundwater reduction
plan to facilitate compliance with the applicable rules, orders,
regulations, or requirements of the Lone Star Groundwater
Conservation District. If the authority determines to exercise the
powers and authority described by Sections 11 through 11M of this
Act and to implement a groundwater reduction plan for all or
substantially all of Montgomery County, the authority shall have
the continuing duty and responsibility to implement and enforce

1 such plan, including the responsibility to develop sufficient
2 alternative water supply resources consistent with the purposes
3 described in this section, subject to the limitations of
4 engineering, financial, and legal feasibility.

5 Sec. 11A. DEFINITIONS. In Sections 11 through 11M of this
6 Act:

7 (1) "Authority" means the San Jacinto River Authority.

8 (2) "Board" means the board of directors of the
9 authority.

10 (3) "Conservation district" means the Lone Star
11 Groundwater Conservation District.

12 (4) "District" means any district or authority created
13 under Sections 52(b)(1) and (2), Article III, or Section 59,
14 Article XVI, Texas Constitution, regardless of the manner of
15 creation, other than the conservation district, a navigation
16 district, a port authority, or a district that does not have legal
17 authority to provide retail water service.

18 (5) "Groundwater reduction plan" means a plan adopted
19 or implemented by the authority to supply water, reduce reliance on
20 groundwater, control groundwater pumping or usage by regulated
21 users, or restrict, allocate, or require water usage among
22 regulated users in order to fully and timely comply with or exceed
23 requirements imposed by the conservation district, including any
24 applicable groundwater reduction requirements and any related
25 water supply plan, water conservation plan, or drought contingency
26 plan of the authority.

27 (6) "Local government" means a municipality, county,

1 district, or other political subdivision of this state or a
2 combination of two or more of those entities.

3 (7) "Participant" means a regulated user
4 participating in the authority's groundwater reduction plan.

5 (8) "Person" means an individual, corporation,
6 organization, government or governmental subdivision or agency,
7 district, local government, business trust, estate, trust,
8 partnership, association, and any other legal entity.

9 (9) "Regulated user" means a person located in whole
10 or in part, or with a service area, certificated area, or boundaries
11 located in whole or in part, in Montgomery County that is subject to
12 any rule, order, regulation, or requirement of the conservation
13 district imposing groundwater withdrawal reductions, except for
14 any person that owns or operates a single groundwater well serving
15 not more than two single-family residential dwellings or units.

16 Sec. 11B. ADDITIONAL POWERS AND DUTIES. (a) In
17 furtherance of Section 11 of this Act and in addition to all rights,
18 powers, privileges, authority, and functions conferred by other
19 sections of this Act, the authority is authorized to take any and
20 all actions necessary or convenient to:

21 (1) design, finance, construct, acquire by purchase,
22 gift, lease, contract, or any other legal means, operate, maintain,
23 repair, improve, or extend water treatment or supply systems as
24 necessary to implement the authority's groundwater reduction plan,
25 including all additions to such systems and all land, improvements,
26 facilities, plants, equipment, appliances, interests in property,
27 water rights or contract rights for water supply, and regional,

1 regulatory, or joint use participation rights, or contract rights
2 needed for, and administrative facilities needed in connection with
3 such systems;

4 (2) enter into contracts of limited or unlimited
5 duration, notwithstanding the provisions of other law or municipal
6 charter provisions to the contrary, with persons inside or outside
7 the authority's boundaries, on terms and conditions the board
8 considers desirable, fair, and advantageous for the exercise of the
9 rights, powers, privileges, authority, and functions contemplated
10 by this Act;

11 (3) allocate water among participants;

12 (4) coordinate water services provided by or among
13 participants;

14 (5) provide wholesale and retail water services to any
15 participant by order, rule, policy, or on open account, without the
16 necessity for execution of a written contract with such
17 participant;

18 (6) store, sell, or reuse water or any by-product from
19 the operations of the authority's water systems;

20 (7) adopt and enforce rules and administrative
21 policies reasonably required to implement Sections 11 through 11M
22 of this Act, including rules governing procedures before the board
23 and regarding implementation, enforcement, and any other matters
24 related to the authority's groundwater reduction plan; and

25 (8) otherwise administer and enforce Sections 11
26 through 11M of this Act.

27 (b) The authority may not utilize the systems, facilities,

or properties developed to implement the authority groundwater reduction plan to provide treated surface water outside of Montgomery County, except as permitted by Subsection (i), Section 11F of this Act, or as necessary to serve a participant located in part outside of Montgomery County.

(c) Notwithstanding Subdivision (5), Subsection (a) of this section, the authority may not provide retail water service to a person located within the boundaries or certificated area of either a district or municipality or a retail public utility participating in the authority's groundwater reduction plan on the date the authority awards a contract for the construction of, or executes a contract for the acquisition of, water supply facilities to serve that retail user, unless:

(1) the district or municipality or the retail public utility consents in writing to the authority's provision of such retail water service; or

(2) the retail water user is a regulated user, the authority has provided the district or municipality or retail public utility with written notice of the request for service from the retail water user, the authority has provided the district or municipality or retail public utility with reasonable opportunity to negotiate an agreement for the requested service with the retail water user, and the district or municipality or retail public utility has not entered into an agreement for the requested service with the retail water user on or before the 120th day after the date the authority has provided the district or municipality or retail public utility written notice of the request for service from the

1 retail water user. For purposes of this subsection, the boundaries
2 of a municipality shall include territory within the
3 extraterritorial jurisdiction of the municipality.

4 (d) If a retail water user is added to the boundaries or
5 certificated area of a district or municipality or a retail public
6 utility after the date the authority awards a contract for the
7 construction of, or executes a contract for the acquisition of,
8 water supply facilities to serve that retail water user, and the
9 district or municipality or retail public utility is a participant,
10 the authority may provide retail water service to that retail water
11 user without consent.

12 (e) Except as provided by Subsection (c) of this section,
13 the right and power of the authority to provide or continue the
14 provision of wholesale water service to any participant is not
15 limited, restricted, curtailed, or discontinued by:

16 (1) any part or provision of this section; or

17 (2) the annexation or inclusion within the boundaries,
18 extraterritorial jurisdiction, or service area by a municipality,
19 district, retail public utility, or other person, for full or
20 limited purposes, of all or any portion of the boundaries or service
21 area of any participant.

22 (f) Any local government, district, retail public utility,
23 or other person succeeding to the assets and obligations of a
24 participant, whether by annexation, consolidation, merger,
25 abolition, or otherwise, shall assume the rights, powers,
26 authority, obligations, and indebtedness of such participant under
27 Sections 11 through 11M of this Act.

1 Sec. 11C. INITIAL AREA; INCLUSION IN GROUNDWATER REDUCTION
 2 PLAN. (a) The authority shall have jurisdiction to enforce the
 3 rights, powers, privileges, authority, and functions contemplated
 4 by Sections 11 through 11M of this Act with respect to regulated
 5 users located in whole or in part within Montgomery County, except
 6 where expressly prohibited by this Act, but only on or after the
 7 date such regulated users are included as participants in the
 8 authority's groundwater reduction plan.

9 (b) A person that is a regulated user on the effective date
 10 of this section may petition to be included in the authority's
 11 groundwater reduction plan by filing with the authority a duly
 12 authorized and executed petition requesting inclusion. The board
 13 shall grant the petition and order the regulated user included in
 14 the authority's groundwater reduction plan if the petition includes
 15 an accurate legal description of the boundaries of the regulated
 16 user's service area, or other documents, descriptions, or maps that
 17 sufficiently identify the area proposed to be included in lieu of
 18 such legal description, and the petition is filed with the board not
 19 later than the 120th day after the effective date of the initial
 20 groundwater reduction plan adopted by the authority under Section
 21 11E of this Act. Such order shall be adopted not later than the
 22 120th day after the last date for filing a petition for inclusion.

23 (c) If a person that is a regulated user on the effective
 24 date of this section is not included in the authority's groundwater
 25 reduction plan under Subsection (b) of this section, the authority
 26 may not include the regulated user in any groundwater reduction
 27 plan adopted or implemented by the authority unless the regulated

user is subsequently added to the authority's groundwater reduction plan under Section 11D of this Act.

(d) After a regulated user is included in the authority's groundwater reduction plan under Subsection (b) of this section, the authority may exclude the regulated user from its groundwater reduction plan, at its sole discretion and on terms and conditions the board considers appropriate, on the filing with the board of a duly authorized and executed petition requesting exclusion. This subsection shall not be construed to limit the power of the authority to exclude a regulated user from its groundwater reduction plan, without the filing of a petition, under Section 11H of this Act.

Sec. 11D. ADDITIONS TO GROUNDWATER REDUCTION PLAN.

(a) Any person that becomes a regulated user after the period has expired for filing a petition for inclusion under Section 11C of this Act shall become a participant without further action by the authority or such person. The authority and the conservation district may enter into such agreements as may be appropriate to provide information to the authority reasonably necessary to identify and contact such participants. The authority by rule may require a participant to provide the authority with any necessary documents pertaining to the participant's service area and the actual or projected water demands of such service area.

(b) A regulated user that was not included in the authority's groundwater reduction plan under Section 11C of this Act may subsequently file with the board a duly authorized and executed petition requesting that all or part of the regulated

1 user's service area be included in the authority's groundwater
2 reduction plan. The petition must include an accurate legal
3 description of the boundaries of the regulated user's service area
4 to be included or other documents, descriptions, or maps that
5 sufficiently identify the area proposed to be included in lieu of
6 such legal description. The authority may grant the petition if, in
7 its sound discretion, the authority determines that:

8 (1) it is feasible from an engineering and economic
9 standpoint to do so;

10 (2) granting the petition will not:

11 (A) result in material increases in costs to the
12 participants in the authority's groundwater reduction plan;

13 (B) result in any material delay in the
14 implementation of the authority's groundwater reduction plan; or

15 (C) expose the authority or any participant to
16 additional construction or financing costs, fines, or penalties or
17 noncompliance with applicable regulatory requirements.

18 (c) The authority may require a regulated user, all or part
19 of whose service area is included in the authority's groundwater
20 reduction plan under Subsection (b) of this section, to pay to the
21 authority, for the benefit of the participants, a reasonable and
22 equitable charge determined by the authority to mitigate or fairly
23 distribute among the participants any additional costs to be
24 incurred by the inclusion of the additional service area in the
25 authority's groundwater reduction plan. If the authority has
26 outstanding or unissued bonds, notes, or other obligations to
27 finance the costs of the authority's provision of water supply

1 facilities and services under the authority's groundwater
2 reduction plan, the petition shall constitute the election and
3 agreement of the petitioning regulated user to assume the regulated
4 user's pro rata share of the principal of and interest on such
5 outstanding or unissued bonds, notes, or other obligations. This
6 subsection shall not apply to an annexation to or expansion of a
7 participant's boundaries, extraterritorial jurisdiction, or
8 service area, as applicable, notwithstanding that such annexation
9 or expansion may include, in whole or in part, territory within or
10 previously within the boundaries or service area of a regulated
11 user that was not included in the authority's groundwater reduction
12 plan under Section 11C of this Act.

13 (d) The authority by rule may require participants to
14 provide the authority with written notice of the effective date of
15 an annexation to or expansion of the regulated user's boundaries or
16 service area, together with copies of any necessary documents,
17 descriptions, maps, and projected or actual water demands of the
18 annexed or expanded boundaries or service area. Except to the
19 extent otherwise provided by rule, order, or written agreement of
20 the authority, the boundary or service area expansion of a
21 participant does not affect:

22 (1) the authority's powers and authority inside or
23 outside the expanded boundary or service area of the participant;

24 (2) the authority's groundwater reduction plan or
25 contracts; or

26 (3) the authority's authority to assess fees, user
27 fees, rates, charges, or special assessments inside or outside the

1 expanded boundaries or service area of the participant.

2 (e) The addition of territory to the authority's groundwater
3 reduction plan under this section does not affect the validity of
4 the authority's bonds, notes, or other obligations authorized,
5 issued, or incurred before or after such addition.

6 Sec. 11E. GROUNDWATER REDUCTION, WATER SUPPLY,
7 CONSERVATION, AND DROUGHT CONTINGENCY PLANS. (a) The authority
8 may wholly or partly develop, prepare, adopt, amend, revise,
9 implement, enforce, manage, or participate in a groundwater
10 reduction plan as necessary, in the discretion of the authority, to
11 facilitate full and timely compliance with applicable conservation
12 district rules, orders, regulations, or requirements. A
13 groundwater reduction plan may:

14 (1) specify the measures to be taken by regulated
15 users to reduce groundwater withdrawals;

16 (2) identify alternative sources of water, including
17 water from the authority, to be provided to regulated users;

18 (3) identify or estimate the rates, terms, and
19 conditions under which alternative sources of water will be
20 provided, which may be changed from time to time as considered
21 necessary by the authority;

22 (4) specify the dates and the extents to which
23 participants must reduce or cease usage of groundwater and accept
24 water from alternative sources, including water from the authority;

25 (5) require conversion or overconversion by regulated
26 users in any designated portion of the plan area to alternative
27 water sources in excess of the minimum requirements imposed by the

1 conservation district, including any applicable groundwater
2 reduction requirements, so long as and to the extent that the
3 conversion or overconversion is necessary or appropriate in
4 implementing the authority's groundwater reduction plan and the
5 costs are apportioned among participants through the authority's
6 fees, user fees, rates, and charges under Section 11F of this Act;

7 (6) provide that the groundwater reduction plan shall
8 be the exclusive groundwater reduction plan that is binding and
9 mandatory on regulated users included in the plan;

10 (7) limit, prohibit, or permit the export of
11 groundwater from, or the importation of water from any source to,
12 participants;

13 (8) require the joint use by one or more participants
14 of the water supply or delivery systems or facilities of a
15 participant to facilitate the delivery of alternative water
16 supplies, but only to the extent feasible without diminishing or
17 impairing the delivery capabilities of the systems or facilities of
18 a participant for its own uses and only upon proper compensation to
19 the participant;

20 (9) include other terms and measures that are
21 consistent with the powers and duties of the authority; and

22 (10) be amended from time to time at the discretion of
23 the authority.

24 (b) The initial groundwater reduction plan of the authority
25 may not be adopted until the later of:

26 (1) the effective date of any final rule, order,
27 regulation, or requirement adopted by the conservation district

1 that imposes groundwater withdrawal reductions applicable to a
2 regulated user; or

3 (2) the effective date of one or more written
4 agreements, each with an initial term of not less than 40 years,
5 that grant the authority the right to receive water supply services
6 from all or substantially all of the remaining permitted yield for
7 municipal use in and to the Lake Conroe Dam and Reservoir Project
8 not then permitted to the authority.

9 (c) Notwithstanding any other provisions of Sections 11
10 through 11M of this Act, the authority may rescind the adoption of
11 the initial groundwater reduction plan by written order of the
12 board adopted not later than the 240th day or before the 120th day
13 following the adoption of the initial groundwater reduction plan if
14 the authority finds, in its sole discretion, that the
15 implementation of the initial groundwater reduction plan is not
16 practicable or feasible for any reason or will not achieve the
17 purposes of Sections 11 through 11M of this Act. On and after the
18 date of the order of the board rescinding the initial groundwater
19 reduction plan, the authority shall have no obligation to continue
20 to develop or implement a groundwater reduction plan for the
21 benefit of any regulated user, including a regulated user that
22 filed a petition to be included in the authority's groundwater
23 reduction plan under Subsection (b), Section 11C of this Act, or
24 that would otherwise be included in the authority's groundwater
25 reduction plan under Subsection (a), Section 11D of this Act.
26 Written notice of the adoption of an order rescinding adoption of
27 the initial groundwater reduction plan shall be provided within 30

days to each regulated user that filed a petition to be included in the authority's groundwater reduction plan under Section 11C of this Act, but the failure of a regulated user to receive notice shall not obligate the authority to continue to develop or implement a groundwater reduction plan for the benefit of the regulated user.

(d) Fees, user fees, rates, charges, and special assessments of the authority may be imposed by the authority as provided by this Act for a regulated user's participation in and benefit derived from the authority's groundwater reduction plan.

(e) The authority by rule may develop, prepare, adopt, amend, revise, implement, enforce, and manage a comprehensive water supply plan, water conservation plan, or drought contingency plan for and applicable to participants.

Sec. 11F. FEES, USER FEES, RATES, AND CHARGES. (a) The authority may establish fees, user fees, rates, and charges applicable to any participant and make reasonable classifications of participants for purposes of such fees, rates, and charges as are necessary by the authority to implement and enforce the plans, powers, and authority conferred by Sections 11 through 11M of this Act, but the fees, rates, and charges may not be imposed before the last date for the authority to adopt an order granting a petition to be included in the authority's groundwater reduction plan under Subsection (b), Section 11C of this Act.

(b) Among other criteria and classifications, the authority may charge a participant a fee or user fee according to the amount of water pumped from the participant's groundwater well. If

1 ownership of a groundwater well changes, both the prior and
2 subsequent well owners are responsible to the authority as
3 participants, jointly and severally, for all fees and user fees
4 imposed by the authority under this Act, and any related penalties
5 and interest, for water pumped from the groundwater well before the
6 change in ownership.

7 (c) The board shall make reasonable efforts to notify each
8 participant, by publication or by written notice, of the date,
9 time, and location of the meeting of the board at which the board
10 intends to adopt a proposed rate, fee, user fee, or charge under
11 this section and the amount of the proposed rate, fee, user fee, or
12 charge. The board's failure to provide actual notice to each
13 participant does not invalidate a rate, fee, user fee, or charge
14 adopted by the board under this section.

15 (d) The board shall exempt from any rate, fee, user fee, or
16 charge under this section persons or classes of groundwater wells
17 that are not subject to any groundwater reduction requirement
18 imposed by the conservation district, but if any such persons or
19 classes of groundwater wells subsequently become subject to a
20 groundwater reduction requirement imposed by the conservation
21 district, the authority may thereafter impose such rate, fee, user
22 fee, or charge. For purposes of this subsection, a person or a
23 groundwater well is subject to a groundwater reduction requirement
24 if the conservation district has adopted or adopts a requirement or
25 rule that withdrawals from the groundwater well, or from the
26 groundwater well and other groundwater wells collectively, be
27 reduced, including a groundwater reduction requirement that does

1 not need to be satisfied until a future date.

2 (e) Notwithstanding Subsection (d) of this section, any
3 person that owns or operates a single groundwater well serving not
4 more than two single-family residential dwellings or units, and any
5 groundwater well in such class, shall be exempt from any rate, fee,
6 user fee, or charge under this section or any special assessment
7 under Section 11G of this Act. The board by rule may exempt any
8 other persons or classes of groundwater wells from any rate, fee,
9 user fee, or charge under this section.

10 (f) The authority may establish fees, user fees, rates, and
11 charges that are sufficient to:

- 12 (1) achieve water conservation;
- 13 (2) prevent waste of water;
- 14 (3) serve as a disincentive to pumping groundwater;
- 15 (4) develop, implement, or enforce a groundwater
16 reduction plan;
- 17 (5) accomplish the purposes of Sections 11 through 11M
18 of this Act, including making available alternative water supplies;
- 19 (6) purchase, lease, reserve, option, or contract for
20 alternative water supplies;
- 21 (7) enable the authority to meet administrative,
22 operations, and maintenance expenses relating to the authority's
23 groundwater reduction plan;
- 24 (8) pay the principal of and interest on notes, bonds,
25 and other obligations issued or incurred or to be issued or incurred
26 in connection with the exercise of the authority's rights, powers,
27 privileges, authority, and functions under Sections 11 through 11M

1 of this Act;

2 (9) satisfy all rate covenants relating to the
3 issuance of notes, bonds, and other obligations; and

4 (10) establish, accumulate, maintain, or replenish
5 one or more operating, debt service, contingency, or emergency
6 reserve funds as deemed necessary by the authority.

7 (g) The rates, fees, user fees, and charges of the authority
8 shall at all times be established and imposed in order to equitably
9 apportion the costs of the authority's groundwater reduction plan
10 among the participants, as nearly as practicable on a uniform
11 basis, such that no special advantage or disadvantage is realized
12 by a participant or class of participants because of proximity or
13 access to alternative water supplies of the authority, geographical
14 location, the time of inclusion within the groundwater reduction
15 plan, the nature or extent of the water demands of the participant,
16 or because the participant or class of participants is using
17 groundwater, or alternative water supplies, or both.

18 (h) The authority may also impose rates, fees, user fees, or
19 charges for the importation of water by a participant.

20 (i) To the extent that any fees, user fees, rates, charges,
21 or special assessments collected by the authority from participants
22 in the authority's groundwater reduction plan under this Act are
23 used to pay or reimburse the authority or one or more of its
24 operating divisions for the costs of developing, holding,
25 purchasing, leasing, reserving, optioning, or contracting for
26 alternative water supplies, the first and prior use of such
27 alternative water supplies shall be for the benefit of the

1 participants. Nothing in this Act shall be deemed or construed to
2 limit the right and power of the authority or one or more of its
3 other operating divisions to sell, option, or reserve water
4 supplies that in the judgment of the authority are surplus to the
5 needs of the participants, on a temporary, seasonal, periodic, or
6 permanent basis, to other persons, so long as any net income or
7 revenues from such sale, optioning, or reservation are first used
8 to reimburse the participants for any actual costs, expenses, or
9 carrying costs and interest paid by or on behalf of the participants
10 for such water supplies.

11 (j) The rates, fees, user fees, and charges imposed by the
12 authority under this section shall be at all times the lowest
13 charges which are:

14 (1) consistent with good management practices by the
15 authority;

16 (2) necessary and proper to pay or provide for full and
17 timely payment of the items described in Subsection (f) of this
18 section;

19 (3) consistent with the authority's statutory and
20 constitutional duties and responsibilities; and

21 (4) just, reasonable, and nondiscriminatory.

22 (k) The charges imposed by the authority under this section
23 shall be reviewed and adjusted from time to time by the authority in
24 order to ensure that the charges are not in excess of the needs of
25 the authority for the purposes of this section and that, other than
26 amounts properly allocable to the payment of the general and
27 administrative expenses of the authority relating to the

1 groundwater reduction plan, such charges will not be used for any
2 other corporate purpose of the authority.

3 Sec. 11G. ASSESSMENTS. (a) The board may undertake
4 improvement projects or services that confer a special benefit on
5 all or a defined part of the service area of one or more
6 participants and may impose special assessments on property in the
7 defined area, including property of a local government, based on
8 the benefit conferred by the improvement project or service, to pay
9 all or part of the costs of the project or service. The authority
10 may finance with special assessments any improvement project or
11 service authorized by this Act or other law, including water
12 delivery systems or facilities or water supplies for recreational,
13 environmental, aesthetic, or other nonconsumptive uses.

14 (b) Services or improvement projects may be financed with
15 special assessments only after the board holds a public hearing on
16 the advisability of the improvement project or service and the
17 proposed assessments.

18 (c) The board shall publish notice of the hearing in a
19 newspaper or newspapers with general circulation in Montgomery
20 County. The publication must be made not later than the 30th day
21 before the date of the hearing.

22 (d) Notice provided under this section must include:

23 (1) the time and place of the hearing;

24 (2) the general nature of the proposed improvement
25 project or service;

26 (3) the estimated cost of the improvement project or
27 service, including projected interest and associated financing

1 costs; and

2 (4) the proposed method of assessment.

3 (e) Written notice containing the information required by
4 Subsection (d) of this section shall be sent by certified mail,
5 return receipt requested, not later than the 30th day before the
6 date of the hearing, to each participant affected by such proposed
7 assessment.

8 (f) Following a hearing conducted by the board on a proposed
9 improvement project or service, the board shall make written
10 findings and conclusions relating to the advisability of the
11 improvement project or service, the nature of the improvement
12 project or service, the estimated costs, and the area benefited.

13 (g) After conclusion of a hearing conducted by a hearings
14 examiner on a proposed improvement project or service, the hearings
15 examiner shall file with the board a written report of the
16 examiner's findings and conclusions. The board may act upon such
17 findings and conclusions at any meeting of the board at which notice
18 of the meeting is given as provided by Chapter 551, Government Code,
19 without the necessity for further notice.

20 (h) At adjournment of a hearing on proposed assessments, or
21 after consideration of a hearings examiner's findings and
22 conclusions on the proposed assessments, the board shall hear and
23 rule on all objections to each proposed assessment. After the board
24 hears and rules on such objections, the board, by order:

25 (1) shall fix the amount of and impose the assessments
26 as special assessments on each affected property;

27 (2) shall specify the method of payment of the

1 assessments; and

2 (3) may provide that such assessments, including
3 interest, be paid in periodic installments or be subject to
4 prepayment charges if prepaid.

5 (i) Periodic installment payments of assessments must be in
6 amounts sufficient to meet all costs for the associated improvement
7 projects or services and must continue in effect for the period
8 required to fully and timely pay for the services to be rendered or
9 any bonds, notes, or other obligations issued or incurred by the
10 authority to finance any associated improvement projects. The
11 board may provide interest charges or penalties for failure to make
12 timely payment and may impose a fee to cover delinquencies and
13 expenses of collection.

14 (j) The board shall equitably apportion the cost of an
15 improvement project or services, to be assessed against the
16 property according to the special benefits that accrue to the
17 property because of the improvement project or services. Among
18 other classifications of benefits received, the board may assess
19 costs according to the number of gallons of groundwater pumped from
20 groundwater wells that are within or that serve such property and
21 are subject to a groundwater reduction requirement imposed by the
22 conservation district.

23 (k) A person that becomes a participant after the authority
24 has imposed assessments may waive the right to notice and an
25 assessment hearing and may agree to the imposition and payment of
26 assessments at an agreed rate. A participant may waive the right to
27 notice and an assessment hearing for territory within its

1 boundaries or service area added to the authority's groundwater
2 reduction plan and may agree to the imposition and payment of
3 assessments at an agreed rate.

4 (1) The board shall provide for the preparation of an
5 assessment roll showing the assessments against each property and
6 the board's basis for the assessment. The assessment roll shall be:

7 (1) filed with the secretary of the board or another
8 officer who performs similar functions; and

9 (2) open for public inspection.

10 (m) After notice and hearing in the manner required for an
11 original assessment, the board may make supplemental assessments to
12 correct omissions or mistakes or to address changed circumstances
13 relating to the total costs of the improvement project or service or
14 to covering delinquencies or costs of collection.

15 (n) The board may not impose or enforce a special assessment
16 under this section unless:

17 (1) one or more participants request in writing that
18 the authority undertake an improvement project or services that
19 confer a special benefit on the requesting participant or
20 participants; or

21 (2) one or more participants have failed to commence
22 construction of facilities or provide for equipment necessary to
23 accept water from alternative sources by a date that is 120 days or
24 more after written notice from the authority of the availability of
25 such water from alternative sources and of the rules of the
26 authority requiring such action.

27 Sec. 11H. INTEREST AND PENALTIES; COLLECTIONS; LIEN.

(a) The board may require the payment of interest on any late or unpaid fees, user fees, rates, charges, and special assessments due the authority, but the interest rate may not exceed the interest rate permitted by Section 2251.025, Government Code. The board may also impose penalties for the failure to make a complete or timely payment to the authority. In addition, the board may exclude a participant, or the service area or territory or a groundwater well owned or controlled by a participant, from the authority's groundwater reduction plan for failure to make a complete or timely payment to the authority. The authority is entitled to reasonable attorney's fees incurred by the authority in enforcing its rules or in collecting any delinquent fees, user fees, rates, charges, and special assessments and any related penalties and interest.

(b) In addition to being the legal responsibility of a participant or well owner, the fees, user fees, rates, charges, and special assessments imposed by the authority under Sections 11F and 11G of this Act, any related penalties and interest, and collection expenses and reasonable attorney's fees incurred by the authority:

(1) are a first and prior lien against the groundwater well to which they apply; and

(2) are superior to any other lien or claim, other than a lien or claim for county, school district, or municipal ad valorem taxes.

(c) A lien under this section is effective from the date of the resolution or order of the board imposing the fee, user fee, rate, charge, or special assessment until paid. The board may enforce the lien in the same manner that a municipal utility

1 district operating under Chapters 49 and 54, Water Code, may
2 enforce an ad valorem tax lien against real property.

3 Sec. 11I. ADMINISTRATIVE PENALTY; INJUNCTION. (a) A
4 person who violates a rule or order of the authority imposed under
5 Sections 11 through 11M of this Act is subject to an administrative
6 penalty, payable to the authority:

7 (1) in an amount of not more than \$5,000, as determined
8 by the board, for each violation or each day of a continuing
9 violation; or

10 (2) in an amount in excess of \$5,000, as determined by
11 the board, necessary to recoup any administrative fines or
12 penalties imposed against the authority resulting from one or more
13 violations of the rules or orders of the authority by one or more
14 participants.

15 (b) The authority may bring an action to recover the penalty
16 in a district court in the county where the violation occurred.

17 (c) The authority may bring an action for injunctive relief
18 in a district court in the county where a violation of a rule or
19 order of the authority occurs or is threatened to occur. The court
20 may grant to the authority, without bond or other undertaking, a
21 prohibitory or mandatory injunction, as warranted by the facts,
22 including a temporary restraining order, temporary injunction, or
23 permanent injunction.

24 (d) The authority may bring an action for an administrative
25 penalty and injunctive relief in the same proceeding.

26 Sec. 11J. WAIVER OF IMMUNITY. Immunity from suit,
27 judgment, or liability of any local government participating in the

1 authority's groundwater reduction plan is hereby waived, but only
2 to the limited extent necessary to permit the authority to exercise
3 and enforce the rights, powers, privileges, and authority granted
4 in Sections 11 through 11M of this Act against any such local
5 government.

6 Sec. 11K. ELIGIBILITY FOR FINANCIAL ASSISTANCE. In
7 addition to any other financial assistance program for which the
8 authority may be eligible, the rights, powers, privileges, and
9 authority conferred by Sections 11 through 11M of this Act shall be
10 construed as authorizing the authority to receive financial
11 assistance through the Groundwater District Loan Program
12 administered by the Texas Water Development Board.

13 Sec. 11L. PUBLIC HEARINGS. The board by rule may establish
14 the procedures for conducting public hearings and whether any
15 hearing shall be conducted by the board or a hearings examiner. Any
16 public hearing may be adjourned from time to time to a date, time,
17 and location specified upon adjournment, without the necessity for
18 further notice.

19 Sec. 11M. OPERATING DIVISION. (a) To facilitate the
20 implementation of a groundwater reduction plan, the authority
21 shall:

22 (1) establish and maintain a separate operating
23 division of the authority with separate books of account that shall
24 be audited annually;

25 (2) contract for, lease, or purchase, by and for the
26 separate operating division, services, land, equipment, and
27 facilities, including administrative and management services and

1 facilities, and water and water byproducts, from the authority or
2 one or more other operating divisions of the authority or from other
3 persons; and

4 (3) allocate to the separate operating division a
5 proportional share of the direct and indirect costs of the
6 authority's general and administrative, managerial, accounting,
7 legal, fiscal, clerical, human resources, support services, and
8 technical services.

9 (b) The separate operating division shall be operated for
10 the exclusive benefit of the participants in the authority's
11 groundwater reduction plan and not for the use or benefit of any
12 water user outside the plan area, on a break-even basis, without
13 profit or loss to the separate operating division, such that,
14 except as provided in Subsection (i), Section 11F of this Act, the
15 assets, income, responsibilities, liabilities, and debts of the
16 separate operating division are not a charge against, an obligation
17 or responsibility of, or an asset of or income source to any other
18 operating division of the authority. Nothing in this subsection
19 shall be deemed or construed to limit or restrict the right and
20 power of the authority or one or more of its other operating
21 divisions to:

22 (1) prepare, maintain, audit, or report its financial
23 position on a consolidated basis with one or more other operating
24 divisions of the authority;

25 (2) sell untreated water to such separate operating
26 division from one or more other operating divisions of the
27 authority or from other sources at generally prevailing and

1 applicable rates adopted by the authority; or

2 (3) recover or be reimbursed the costs described in
3 Subsection (a) of this section.

4 SECTION 2. Sections 10, 10a, 10b, 10c, and 10d, Chapter 426,
5 Acts of the 45th Legislature, Regular Session, 1937, are repealed.

6 SECTION 3. Chapter 426, Acts of the 45th Legislature,
7 Regular Session, 1937, is amended by adding Section 10A to read as
8 follows:

9 Sec. 10A. PUBLIC SECURITIES. (a) In this section:

10 (1) "Public security" has the meaning assigned by
11 Chapter 1201, Government Code.

12 (2) "Credit agreement," "security agreement," and
13 "security interest" have the meanings assigned by Chapter 1208,
14 Government Code.

15 (b) The authority is authorized to issue, sell, and deliver
16 its public securities in the manner provided by this section or
17 other law, including Chapter 1371, Government Code, to finance or
18 pay for any project, improvement, program, plan, or purpose of the
19 authority or to refund or refinance any public security.

20 (c) Public securities of the authority may be sold by the
21 board or by delegation of authority to an officer or employee of the
22 authority, at public or private sale, in such form, at such price,
23 on such terms and conditions, and at such interest rate or rates,
24 whether fixed, variable, floating, adjustable, or otherwise, as the
25 board may determine appropriate, provided the net effective
26 interest rate does not exceed the maximum rate allowed by law.

27 (d) Without the necessity for an election, public

1 securities of the authority may be made payable from all or any
2 designated portion or combination of any revenues, receipts, fees,
3 user fees, rates, charges, special assessments, contract revenues,
4 income, proceeds of refunding public securities, or funds from any
5 other source of the authority other than ad valorem taxes. Public
6 securities of the authority payable in whole or in part from ad
7 valorem taxes may be issued only after approval by a majority of the
8 qualified electors of all or a defined portion of the service area
9 of the authority voting at an election held for that purpose. The
10 board may call and conduct elections within all or a defined portion
11 of the service area of the authority for that purpose.

12 (e) Public securities of the authority may be secured by
13 means of a security agreement or credit agreement, or both, and with
14 such security interest or interests, other than a mortgage interest
15 on real property, and with such parity or priority of pledge and
16 lien as the board may determine to be appropriate.

17 SECTION 4. The repeal of laws under Section 2 of this Act
18 shall not affect the validity, enforceability, security, priority
19 of lien, or other terms and conditions of any bonds, notes, or
20 obligations of the San Jacinto River Authority issued or incurred
21 prior to the effective date of this Act.

22 SECTION 5. The legislature finds that proper and legal
23 notice of the intention to introduce this Act, setting forth the
24 general substance of this Act, has been published as provided by
25 law, and such notice and a copy of this Act have been furnished to
26 all persons, agencies, officials, or entities to which they are
27 required to be furnished by the constitution and laws of this state,

1 including the governor, who has submitted the notice and Act to the
2 Texas Commission on Environmental Quality, and that the Texas
3 Commission on Environmental Quality has filed its recommendations
4 relating to this Act with the governor, lieutenant governor, and
5 speaker of the house of representatives within the required time,
6 and that all requirements of the constitution and laws of this state
7 and the rules and procedures of the legislature with respect to the
8 notice, introduction, and passage of this Act have been fulfilled
9 and accomplished.

10 SECTION 6. The legislature finds, determines, and declares
11 its intent that:

12 (1) the conservation and preservation of groundwater
13 resources in Montgomery County is essential to the economic
14 well-being and public health of the state as a whole;

15 (2) effective measures to reduce groundwater
16 withdrawals by large-volume groundwater users in Montgomery County
17 must be implemented immediately;

18 (3) the withdrawal of groundwater from shallow
19 aquifers for domestic or household use by individuals has no
20 significant negative impact on groundwater resources in Montgomery
21 County; and

22 (4) under no circumstances shall this Act be
23 interpreted, deemed, or construed to apply to or to authorize the
24 reduction of groundwater withdrawal by any person that owns or
25 operates a single groundwater well serving not more than two
26 single-family residential dwellings or units.

27 SECTION 7. The provisions of this Act are severable. If any

1 word, phrase, clause, sentence, section, provision, or part of this
2 Act is held invalid or unconstitutional, it shall not affect the
3 validity of the remaining portions, and it is declared to be the
4 legislative intent that this Act would have been passed as to the
5 remaining portions regardless of the invalidity of any part.

6 SECTION 8. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.