

BILL ANALYSIS

Senate Research Center

S.B. 2489
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Lone Star Groundwater Conservation District (conservation district) was created by the Texas Legislature to conserve and protect the aquifer beneath Montgomery County. The conservation district is developing final rules that will require a 30 percent reduction in groundwater pumping by 2015, with future reductions expected. The rules will apply to districts, municipalities, retail public utilities, and private utilities or other persons operating wells that pump 10,000,000 gallons or more of groundwater annually.

Specifically, the San Jacinto River Authority (SJRA) intends to construct a water treatment and distribution system that will over-convert (i.e., reduce groundwater pumping more than 30 percent) densely populated areas of the county to surface water from Lake Conroe and, as a result, allow many existing regulated users to continue using groundwater wells, keep infrastructure and costs to a minimum, and allow new development to pump groundwater. Similar programs in Harris and Fort Bend counties are being implemented by regional river authorities created by the Texas Legislature.

As proposed, S.B. 2489 allows persons subject to the conservation district's rules the opportunity to participate in SJRA's combined groundwater reduction plan (GRP), which allows participating regulated users to achieve compliance with the conservation district's rules through SJRA's sale and delivery of treated surface water. This bill sets forth provisions for the implementation of GRP and associated fees, and repeals provisions of SJRA's enabling legislation relating to the issuance of bonds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

Sec. 11. GROUNDWATER REDUCTION PLANNING AUTHORITY. Authorizes the San Jacinto River Authority (SJRA), consistent with the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, and in addition to all rights, powers, privileges, authority, and functions conferred by other sections of this Act, 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 (GRP) to facilitate compliance with the applicable rules, orders, regulations, or requirements of the Lone Star Groundwater Conservation District (conservation district). Requires SJRA, if SJRA 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, to have the continuing duty and responsibility to implement and enforce such plan, including the responsibility to develop sufficient alternative water supply resources consistent with the purposes described in this section, subject to the limitations of engineering, financial, and legal feasibility.

Sec. 11A. DEFINITIONS. Defines "authority," "board," "conservation district," "district," "groundwater reduction plan," "local government," "participant," "person," and "regulated user."

Sec. 11B. ADDITIONAL POWERS AND DUTIES. (a) Authorizes SJRA, in furtherance of Section 11 of this Act and in addition to all rights, powers, privileges, authority, and functions conferred by other sections of this Act, to take any and all actions necessary or convenient to:

(1) design, finance, construct, acquire by purchase, gift, lease, contract, or any other legal means, operate, maintain, repair, improve, or extend water treatment or supply systems as necessary to implement SJRA's GRP, including all additions to such systems and all land, improvements, facilities, plants, equipment, appliances, interests in property, water rights or contract rights for water supply, and regional, regulatory, or joint use participation rights, or contract rights needed for, and administrative facilities needed in connection with such systems;

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

(3) allocate water among participants;

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

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

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

(7) adopt and enforce rules and administrative policies reasonably required to implement Sections 11 through 11M of this Act, including rules governing procedures before the board and regarding implementation, enforcement, and any other matters related to SJRA's GRP; and

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

(b) Prohibits SJRA from utilizing the systems, facilities, or properties developed to implement SJRA's GRP 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) Prohibits SJRA, notwithstanding Subdivision (5), Subsection (a) of this section, from providing 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 SJRA's GRP on the date SJRA 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 SJRA's provision of such retail water service; or

(2) the retail water user is a regulated user, SJRA has provided the district or municipality or retail public utility with written notice of the request for service from the retail water user, SJRA 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 SJRA has provided the district or municipality or retail public utility written notice of the request for service from the retail water user. Requires that the boundaries of a municipality, for purposes of this subsection, include territory within the extraterritorial jurisdiction of the municipality.

(d) Authorizes SJRA, if a retail water user is added to the boundaries or certificated area of a district or municipality or a retail public utility after the date SJRA awards a contract for the construction of, or executes a contract for the acquisition of, water supply facilities to serve that retail water user, and the district or municipality or retail public utility is a participant, to provide retail water service to that retail water user without consent.

(e) Provides that except as provided by Subsection (c) of this section, the right and power of SJRA to provide or continue the provision of wholesale water service to any participant is not limited, restricted, curtailed, or discontinued by any part or provision of this section; or the annexation or inclusion within the boundaries, extraterritorial jurisdiction, or service area by a municipality, district, retail public utility, or other person, for full or limited purposes, of all or any portion of the boundaries or service area of any participant.

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

Sec. 11C. INITIAL AREA; INCLUSION IN GROUNDWATER REDUCTION PLAN.

(a) Requires SJRA to have jurisdiction to enforce the rights, powers, privileges, authority, and functions contemplated by Sections 11 through 11M of this Act with respect to regulated users located in whole or in part within Montgomery County, except where expressly prohibited by this Act, but only on or after the date such regulated users are included as participants in SJRA's GRP.

(b) Authorizes a person that is a regulated user on the effective date of this section to petition to be included in SJRA's GRP by filing with SJRA a duly authorized and executed petition requesting inclusion. Requires the board of directors of SJRA (board) to grant the petition and order the regulated user included in SJRA's GRP if the petition includes an accurate legal description of the boundaries of the regulated user's service area, or other documents, descriptions, or maps that sufficiently identify the area proposed to be included in lieu of such legal description, and the petition is filed with the board not later than the 120th day after the effective date of the initial GRP adopted by SJRA under Section 11E of this Act. Requires that such order be adopted not later than the 120th day after the last date for filing a petition for inclusion.

(c) Prohibits SJRA, if a person that is a regulated user on the effective date of this section is not included in SJRA's GRP under Subsection (b) of this section, from including the regulated user in any GRP adopted or implemented by SJRA unless the regulated user is subsequently added to SJRA's GRP under Section 11D of this Act.

(d) Authorizes SJRA, after a regulated user is included in SJRA's GRP under Subsection (b) of this section, to exclude the regulated user from its GRP, 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. Requires that this subsection not be construed to limit the power of SJRA to exclude a regulated user from its GRP, without the filing of a petition, under Section 11H of this Act.

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

(b) Authorizes a regulated user that was not included in SJRA's GRP under Section 11C of this Act to subsequently file with the board a duly authorized and executed petition requesting that all or part of the regulated user's service area be included in SJRA's GRP. Requires that the petition include an accurate legal description of the boundaries of the regulated user's service area to be included or other documents, descriptions, or maps that sufficiently identify the area proposed to be included in lieu of such legal description. Authorizes SJRA to grant the petition if, in its sound discretion, SJRA determines that it is feasible from an engineering and economic standpoint to do so and granting the petition will not result in material increases in costs to the participants in SJRA's GRP; result in any material delay in the implementation of SJRA's GRP; or expose SJRA or any participant to additional construction or financing costs, fines, or penalties or noncompliance with applicable regulatory requirements.

(c) Authorizes SJRA to require a regulated user, all or part of whose service area is included in SJRA's GRP under Subsection (b) of this section, to pay to SJRA, for the benefit of the participants, a reasonable and equitable charge determined by SJRA to mitigate or fairly distribute among the participants any additional costs to be incurred by the inclusion of the additional service area in SJRA's GRP. Requires that the petition, if SJRA has outstanding or unissued bonds, notes, or other obligations to finance the costs of SJRA's provision of water supply facilities and services under SJRA's GRP, constitute the election and agreement of the petitioning regulated user to assume the regulated user's pro rata share of the principal of and interest on such outstanding or unissued bonds, notes, or other obligations. Requires that this subsection not apply to an annexation to or expansion of a participant's boundaries, extraterritorial jurisdiction, or service area, as applicable, notwithstanding that such annexation or expansion is authorized to include, in whole or in part, territory within or previously within the boundaries or service area of a regulated user that was not included in SJRA's GRP under Section 11C of this Act.

(d) Authorizes SJRA by rule to require participants to provide SJRA with written notice of the effective date of an annexation to or expansion of the regulated user's boundaries or service area, together with copies of any necessary documents, descriptions, maps, and projected or actual water demands of the annexed or expanded boundaries or service area. Provides that except to the extent otherwise provided by rule, order, or written agreement of SJRA, the boundary or service area expansion of a participant does not affect SJRA's powers and authority inside or outside the expanded boundary or service area of the participant; SJRA's GRP or contracts; or SJRA's authority to assess fees, user fees, rates, charges, or special assessments inside or outside the expanded boundaries or service area of the participant.

(e) Provides that the addition of territory to SJRA's GRP under this section does not affect the validity of SJRA's bonds, notes, or other obligations authorized, issued, or incurred before or after such addition.

Sec. 11E. GROUNDWATER REDUCTION, WATER SUPPLY, CONSERVATION, AND DROUGHT CONTINGENCY PLANS. (a) Authorizes SJRA to wholly or partly develop, prepare, adopt, amend, revise, implement, enforce, manage, or participate in a GRP as necessary, in the discretion of SJRA, to facilitate full and timely compliance with applicable conservation district rules, orders, regulations, or requirements. Sets forth certain authorizations of GRP.

(b) Prohibits the initial GRP of SJRA from being adopted until the later of the effective date of any final rule, order, regulation, or requirement adopted by the conservation district that imposes groundwater withdrawal reductions applicable to a regulated user; or the effective date of one or more written agreements, each with an initial term of not less than 40 years, that grant SJRA the right to receive water supply services from all or substantially all of the remaining permitted yield for municipal use in and to the Lake Conroe Dam and Reservoir Project not then permitted to SJRA.

(c) Authorizes SJRA, notwithstanding any other provisions of Sections 11 through 11M of this Act, to rescind the adoption of the initial GRP by written order of the board adopted not later than the 240th day or before the 120th day following the adoption of the initial GRP if SJRA finds, in its sole discretion, that the implementation of the initial GRP is not practicable or feasible for any reason or will not achieve the purposes of Sections 11 through 11M of this Act. Requires SJRA, on and after the date of the order of the board rescinding the initial GRP, to have no obligation to continue to develop or implement a GRP for the benefit of any regulated user, including a regulated user that filed a petition to be included in SJRA's GRP under Subsection (b), Section 11C of this Act, or that would otherwise be included in SJRA's GRP under Subsection (a), Section 11D of this Act. Requires that written notice of the adoption of an order rescinding adoption of the initial GRP be provided within 30 days to each regulated user that filed a petition to be included in SJRA's GRP under Section 11C of this Act, but prohibits the failure of a regulated user to receive notice from obligating SJRA to continue to develop or implement a GRP for the benefit of the regulated user.

(d) Authorizes fees, user fees, rates, charges, and special assessments of SJRA to be imposed by SJRA as provided by this Act for a regulated user's participation in and benefit derived from SJRA's GRP.

(e) Authorizes SJRA by rule to 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) Authorizes SJRA to 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 SJRA to implement and enforce the plans, powers, and authority conferred by Sections 11 through 11M of this Act, but prohibits the fees, rates, and charges from being imposed before the last date for SJRA to adopt an order granting a petition to be included in SJRA's GRP under Subsection (b), Section 11C of this Act.

(b) Authorizes SJRA, among other criteria and classifications, to charge a participant a fee or user fee according to the amount of water pumped from the participant's groundwater well. Provides that if ownership of a groundwater well changes, both the prior and subsequent well owners are responsible to SJRA as participants, jointly and severally, for all fees and user fees imposed by SJRA under this Act, and any related penalties and interest, for water pumped from the groundwater well before the change in ownership.

(c) Requires the board to make reasonable efforts to notify each participant, by publication or by written notice, of the date, time, and location of the meeting of the board at which the board intends to adopt a proposed rate, fee, user fee, or charge under this section and the amount of the proposed rate, fee, user fee, or charge. Provides that the board's failure to provide actual notice to each participant does not invalidate a rate, fee, user fee, or charge adopted by the board under this section.

(d) Requires the board to exempt from any rate, fee, user fee, or charge under this section persons or classes of groundwater wells that are not subject to any groundwater reduction requirement imposed by the conservation district, but if any such persons or classes of groundwater wells subsequently become subject to a groundwater reduction requirement imposed by the conservation district, SJRA is authorized to thereafter impose such rate, fee, user fee, or charge. Provides that for purposes of this subsection, a person or a groundwater well is subject to a groundwater reduction requirement if the conservation district has adopted or adopts a requirement or rule that withdrawals from the groundwater well, or from the groundwater well and other groundwater wells collectively, be reduced, including a groundwater reduction requirement that does not need to be satisfied until a future date.

(e) Exempts any person that owns or operates a single groundwater well serving not more than two single-family residential dwellings or units, and any groundwater well in such class, notwithstanding Subsection (d) of this section, from any rate, fee, user fee, or charge under this section or any special assessment under Section 11G of this Act. Authorizes the board by rule to exempt any other persons or classes of groundwater wells from any rate, fee, user fee, or charge under this section.

(f) Authorizes SJRA to establish fees, user fees, rates, and charges that are sufficient to perform certain actions.

(g) Requires that the rates, fees, user fees, and charges of SJRA at all times be established and imposed in order to equitably apportion the costs of SJRA's GRP among the participants, as nearly as practicable on a uniform basis, such that no special advantage or disadvantage is realized by a participant or class of participants because of proximity or access to alternative water supplies of SJRA, geographical location, the time of inclusion within the GRP, the nature or extent of the water demands of the participant, or because the participant or class of participants is using groundwater, or alternative water supplies, or both.

(h) Authorizes SJRA to also impose rates, fees, user fees, or charges for the importation of water by a participant.

(i) Provides that to the extent that any fees, user fees, rates, charges, or special assessments collected by SJRA from participants in SJRA's GRP under this Act are used to pay or reimburse SJRA or one or more of its operating divisions for the costs of developing, holding, purchasing, leasing, reserving, optioning, or contracting for alternative water supplies, the first and prior use of such alternative water supplies is required to be for the benefit of the participants. Requires that nothing in this Act be deemed or construed to limit the right and power of SJRA or one or more of its other operating divisions to sell, option, or reserve water supplies that in the judgment of SJRA are surplus to the needs of the participants, on a temporary, seasonal, periodic, or permanent basis, to other persons, so long as any net income or revenues from such sale, optioning, or reservation are first used to reimburse the participants for any actual costs, expenses, or carrying costs and interest paid by or on behalf of the participants for such water supplies.

(j) Requires that the rates, fees, user fees, and charges imposed by SJRA under this section be at all times the lowest charges which are consistent with good

management practices by SJRA; necessary and proper to pay or provide for full and timely payment of the items described in Subsection (f) of this section; consistent with SJRA's statutory and constitutional duties and responsibilities; and just, reasonable, and nondiscriminatory.

(k) Requires that the charges imposed by SJRA under this section be reviewed and adjusted from time to time by SJRA in order to ensure that the charges are not in excess of the needs of SJRA for the purposes of this section and that, other than amounts properly allocable to the payment of the general and administrative expenses of SJRA relating to the GRP, such charges will not be used for any other corporate purpose of SJRA.

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

(b) Authorizes services or improvement projects to be financed with special assessments only after the board holds a public hearing on the advisability of the improvement project or service and the proposed assessments.

(c) Requires the board to publish notice of the hearing in a newspaper or newspapers with general circulation in Montgomery County. Requires that the publication be made not later than the 30th day before the date of the hearing.

(d) Sets forth the requirements of the notice.

(e) Requires that written notice containing the information required by Subsection (d) of this section be sent by certified mail, return receipt requested, not later than the 30th day before the date of the hearing, to each participant affected by such proposed assessment.

(f) Requires the board, following a hearing conducted by the board on a proposed improvement project or service, to make written findings and conclusions relating to the advisability of the improvement project or service, the nature of the improvement project or service, the estimated costs, and the area benefited.

(g) Requires the hearings examiner, after conclusion of a hearing conducted by a hearings examiner on a proposed improvement project or service, to file with the board a written report of the examiner's findings and conclusions. Authorizes the board to act upon such findings and conclusions at any meeting of the board at which notice of the meeting is given as provided by Chapter 551 (Open Meetings), Government Code, without the necessity for further notice.

(h) Requires the board, at adjournment of a hearing on proposed assessments, or after consideration of a hearings examiner's findings and conclusions on the proposed assessments, to hear and rule on all objections to each proposed assessment. Provides that after the board hears and rules on such objections, the board, by order, is required to fix the amount of and impose the assessments as special assessments on each affected property; is required to specify the method of payment of the assessments; and is authorized to provide that such assessments, including interest, be paid in periodic installments or be subject to prepayment charges if prepaid.

(i) Requires that periodic installment payments of assessments be in amounts sufficient to meet all costs for the associated improvement projects or services and continue in effect for the period required to fully and timely pay for the services

to be rendered or any bonds, notes, or other obligations issued or incurred by SJRA to finance any associated improvement projects. Authorizes the board to provide interest charges or penalties for failure to make timely payment and impose a fee to cover delinquencies and expenses of collection.

(j) Requires the board to equitably apportion the cost of an improvement project or services, to be assessed against the property according to the special benefits that accrue to the property because of the improvement project or services. Authorizes the board, among other classifications of benefits received, to assess costs according to the number of gallons of groundwater pumped from groundwater wells that are within or that serve such property and are subject to a groundwater reduction requirement imposed by the conservation district.

(k) Authorizes a person that becomes a participant after SJRA has imposed assessments to waive the right to notice and an assessment hearing and to agree to the imposition and payment of assessments at an agreed rate. Authorizes a participant to waive the right to notice and an assessment hearing for territory within its boundaries or service area added to SJRA's groundwater reduction plan and to agree to the imposition and payment of assessments at an agreed rate.

(l) Requires the board to provide for the preparation of an assessment roll showing the assessments against each property and the board's basis for the assessment. Requires that the assessment roll be filed with the secretary of the board or another officer who performs similar functions and open for public inspection.

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

(n) Prohibits the board from imposing or enforcing a special assessment under this section unless one or more participants request in writing that SJRA undertake an improvement project or services that confer a special benefit on the requesting participant or participants; or one or more participants have failed to commence construction of facilities or provide for equipment necessary to accept water from alternative sources by a date that is 120 days or more after written notice from SJRA of the availability of such water from alternative sources and of the rules of SJRA requiring such action.

Sec. 11H. INTEREST AND PENALTIES; COLLECTIONS; LIEN. (a) Authorizes the board to require the payment of interest on any late or unpaid fees, user fees, rates, charges, and special assessments due SJRA, but prohibits the interest rate from exceeding the interest rate permitted by Section 2251.025 (Interest on Overdue Payment), Government Code. Authorizes the board to also impose penalties for the failure to make a complete or timely payment to SJRA. Authorizes the board, in addition, to exclude a participant, or the service area or territory or a groundwater well owned or controlled by a participant, from SJRA's GRP for failure to make a complete or timely payment to SJRA. Entitles SJRA to reasonable attorney's fees incurred by SJRA in enforcing its rules or in collecting any delinquent fees, user fees, rates, charges, and special assessments and any related penalties and interest.

(b) Provides that in addition to being the legal responsibility of a participant or well owner, the fees, user fees, rates, charges, and special assessments imposed by SJRA under Sections 11F and 11G of this Act, any related penalties and interest, and collection expenses and reasonable attorney's fees incurred by SJRA are a first and prior lien against the groundwater well to which they apply; and are superior to any other lien or claim, other than a lien or claim for county, school district, or municipal ad valorem taxes.

(c) Provides that 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. Authorizes the board to enforce the lien in the same manner that a municipal utility district operating under Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, is authorized to enforce an ad valorem tax lien against real property.

Sec. 11I. ADMINISTRATIVE PENALTY; INJUNCTION. (a) Provides that a person who violates a rule or order of SJRA imposed under Sections 11 through 11M of this Act is subject to an administrative penalty, payable to SJRA in an amount of not more than \$5,000, as determined by the board, for each violation or each day of a continuing violation; or in an amount in excess of \$5,000, as determined by the board, necessary to recoup any administrative fines or penalties imposed against SJRA resulting from one or more violations of the rules or orders of SJRA by one or more participants.

(b) Authorizes SJRA to bring an action to recover the penalty in a district court in the county where the violation occurred.

(c) Authorizes SJRA to bring an action for injunctive relief in a district court in the county where a violation of a rule or order of SJRA occurs or is threatened to occur. Authorizes the court to grant to SJRA, without bond or other undertaking, a prohibitory or mandatory injunction, as warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) Authorizes SJRA to bring an action for an administrative penalty and injunctive relief in the same proceeding.

Sec. 11J. WAIVER OF IMMUNITY. Provides that immunity from suit, judgment, or liability of any local government participating in SJRA's groundwater reduction plan is hereby waived, but only to the limited extent necessary to permit SJRA to exercise and enforce the rights, powers, privileges, and authority granted in Sections 11 through 11M of this Act against any such local government.

Sec. 11K. ELIGIBILITY FOR FINANCIAL ASSISTANCE. Requires that the rights, powers, privileges, and authority conferred by Sections 11 through 11M of this Act, in addition to any other financial assistance program for which SJRA is authorized to be eligible, be construed as authorizing SJRA to receive financial assistance through the Groundwater District Loan Program administered by the Texas Water Development Board.

Sec. 11L. PUBLIC HEARINGS. Authorizes the board by rule to establish the procedures for conducting public hearings and whether any hearing is required to be conducted by the board or a hearings examiner. Authorizes any public hearing to be adjourned from time to time to a date, time, and location specified upon adjournment, without the necessity for further notice.

Sec. 11M. OPERATING DIVISION. (a) Requires SJRA to facilitate the implementation of a GRP, to establish and maintain a separate operating division of SJRA with separate books of account that is required to be audited annually; contract for, lease, or purchase, by and for the separate operating division, services, land, equipment, and facilities, including administrative and management services and facilities, and water and water byproducts, from SJRA or one or more other operating divisions of SJRA or from other persons; and allocate to the separate operating division a proportional share of the direct and indirect costs of SJRA's general and administrative, managerial, accounting, legal, fiscal, clerical, human resources, support services, and technical services.

(b) Requires that the separate operating division be operated for the exclusive benefit of the participants in SJRA's GRP and not for the use or benefit of any water user outside the plan area, on a break-even basis, without profit or loss to the separate operating division, such that, except as provided in Subsection (i),

Section 11F of this Act, the assets, income, responsibilities, liabilities, and debts of the separate operating division are not a charge against, an obligation or responsibility of, or an asset of or income source to any other operating division of SJRA. Requires that nothing in this subsection be deemed or construed to limit or restrict the right and power of SJRA or one or more of its other operating divisions to prepare, maintain, audit, or report its financial position on a consolidated basis with one or more other operating divisions of SJRA; sell untreated water to such separate operating division from one or more other operating divisions of SJRA or from other sources at generally prevailing and applicable rates adopted by SJRA; or recover or be reimbursed the costs described in Subsection (a) of this section.

SECTION 2. Repealer: Section 10 (relating to the San Jacinto River Conservation and Reclamation District (district) not being authorized to issue bonds nor to incur indebtedness without voter approval), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937.

Repealer: Section 10a (relating to the board having authority to negotiate and contract with the United States of America), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937.

Repealer: Section 10b (relating to the authority of the district to issue its negotiable bonds, secured only by current revenues of the district, for certain reasons for the control of the San Jacinto River), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937.

Repealer: Section 10c (relating to the requirements of the bonds issued), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937.

Repealer: Section 10d (relating to the prohibition of the district from mortgaging its property), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937.

SECTION 3. Amends Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, by adding Section 10A, as follows:

Sec. 10A. PUBLIC SECURITIES. (a) Defines "public security," "credit agreement," "security agreement," and "security interest."

(b) Authorizes SJRA to issue, sell, and deliver its public securities in the manner provided by this section or other law, including Chapter 1371 (Obligations for Certain Public Improvements), Government Code, to finance or pay for any project, improvement, program, plan, or purpose of SJRA or to refund or refinance any public security.

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

(d) Authorizes public securities of SJRA, without the necessity for an election, to be made payable from all or any designated portion or combination of any revenues, receipts, fees, user fees, rates, charges, special assessments, contract revenues, income, proceeds of refunding public securities, or funds from any other source of SJRA other than ad valorem taxes. Authorizes public securities of SJRA payable in whole or in part from ad valorem taxes to be issued only after approval by a majority of the qualified electors of all or a defined portion of the service area of SJRA voting at an election held for that purpose. Authorizes the board to call and conduct elections within all or a defined portion of the service area of SJRA for that purpose.

(e) Authorizes public securities of SJRA to be secured by means of a security agreement or credit agreement, or both, and with such security interest or interests, other than a mortgage interest on real property, and with such parity or priority of pledge and lien as the board is authorized to determine to be appropriate.

SECTION 4. Prohibits the repeal of laws under Section 2 of this Act from affecting the validity, enforceability, security, priority of lien, or other terms and conditions of any bonds, notes, or obligations of SJRA issued or incurred prior to the effective date of this Act.

SECTION 5. Provides that the legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and such notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ), and that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time, and that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 6. Sets forth that the legislature finds, determines, and declares its intent that the conservation and preservation of groundwater resources in Montgomery County is essential to the economic well-being and public health of the state as a whole; effective measures to reduce groundwater withdrawals by large-volume groundwater users in Montgomery County are required to be implemented immediately; the withdrawal of groundwater from shallow aquifers for domestic or household use by individuals has no significant negative impact on groundwater resources in Montgomery County; and prohibits this Act from being interpreted, deemed, or construed to apply to or to authorize the reduction of groundwater withdrawal by any person that owns or operates a single groundwater well serving not more than two single-family residential dwellings or units.

SECTION 7. Severability clause.

SECTION 8. Effective date: upon passage or September 1, 2009.