

2018 Regular Session

HOUSE BILL NO. 180

BY REPRESENTATIVE MARCELLE

WATER/RESOURCES: Provides for the groundwater resources in and the commissioners of the Capital Area Groundwater Conservation District

1 AN ACT

2 To amend and reenact R.S. 38:3074(A), (B)(introductory paragraph), (C), (D), and (E),
3 3075, and 3097.6(B)(introductory paragraph), (2), and (3)(a) and (e), and to enact
4 R.S. 38:3074(B)(9) and (F) and 3097.6(C), relative to water resource management;
5 to provide for the declaration concerning groundwater in certain parishes; to provide
6 for the membership of the board of commissioners of the Capital Area Groundwater
7 Conservation District; and to provide for related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article III, Section 13 of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 38:3074(A), (B)(introductory paragraph), (C), (D), and (E), 3075,
13 and 3097.6(B)(introductory paragraph), (2), and (3)(a) and (e) are hereby amended and
14 reenacted and R.S. 38:3074(B)(9) and (F) and 3097.6(C) are hereby enacted to read as
15 follows:

16 §3074. Board of commissioners; appointments; tenure; replacement; compensation

17 A. The board of commissioners shall consist of ~~sixteen~~ seventeen members
18 who shall be appointed by the governor. Each appointment by the governor shall be
19 submitted to the Senate for confirmation. The governor shall appoint the chairman

1 who shall serve in that position at the pleasure of the governor. No person shall be
2 eligible to serve as a commissioner if either of the following applies:

3 (1) That person has a conflict of interest as provided by R.S. 42:1101 et seq.

4 (2) That person is employed by, has an ownership interest in, or is a
5 consultant of a private entity that produces or uses groundwater in the jurisdiction
6 of the district for any beneficial use, in excess of fifty thousand gallons for any day
7 during any calendar year from a well or wells owned or operated by such entity or
8 from a well or wells owned or operated solely for the production of water used by
9 such entity.

10 B. The members shall be appointed as follows:

11 * * *

12 (9) One member shall be a public health advocate nominated by the Delta
13 Chapter of the Sierra Club and the Louisiana Environmental Action Network.

14 * * *

15 ~~B.~~ C. The governor shall designate the term of office for each member of the
16 initial board so that:

17 * * *

18 ~~C.~~ D. No commissioner shall be entitled to serve more than two consecutive
19 regular terms, with the exception of members representing governmental entities.
20 Terms shall commence for those initially appointed on the date of implementation
21 of the district. Terms for commissioners subsequently elected shall commence on
22 the anniversary date of the date of implementation.

23 ~~D.~~ E. Vacancies shall be filled by appointment by the governor in the manner
24 provided by Subsection A of this Section.

25 ~~E.~~ F. Commissioners shall not be compensated for their services, except that
26 the board may, by regulation, provide for the payment of expenses for travel outside
27 the district on official business.

1 §3075. Meetings; election of officers

2 ~~A.~~ Immediately upon passage of this part, the nominations or appointments
3 as appropriate shall commence. Within thirty days of the date of their appointment,
4 the board of commissioners of the district shall meet, and it shall meet at its domicile
5 no less than quarterly thereafter. At its organizational meeting the board shall: elect
6 a ~~chairman~~, vice-chairman; and treasurer; establish its domicile within the district;
7 take nominations for the member to be nominated by the board; and it shall begin
8 immediately formulation and consideration of a plan for the conservation of
9 groundwater and where appropriate, prevention or alleviation of damaging or
10 potentially damaging land surface subsidence and groundwater quality degradation.
11 At its second meeting, the board shall nominate, from among the nominees presented
12 at the first meeting, the member to be nominated by the board and shall immediately
13 submit his name to the governor.

14 * * *

15 §3097.6. Determination of area of groundwater concern

16 * * *

17 B. After holding hearings, the commissioner shall issue a written decision
18 based on good management practices and scientifically sound data gathered from the
19 application, the participants in the public hearing, and any other relevant
20 information. If the commissioner has determined that an area of ~~ground water~~
21 groundwater concern exists, his decision shall be in the form of an order that shall
22 describe the boundaries of the area which is determined to be an area of ~~ground~~
23 water groundwater concern. ~~The~~ If an area is designated as an area of groundwater
24 concern in Subsection C of this Section, the commissioner shall hold at least one
25 public hearing, and upon good management practices and scientifically sound data,
26 the commissioner shall issue an order. Whether the area is designated as an area of
27 groundwater concern by the commissioner or by Subsection C of this Section, the
28 order shall ~~also~~ contain a plan to preserve and manage the ~~ground water~~ groundwater

1 resources in that area which may include but is not limited to the following:

2 * * *

3 (2) Incentives to reduce ~~ground water~~ groundwater use.

4 (3) If the commissioner designates an area a critical area of ~~ground water~~
5 groundwater concern, or an area is designated as such in Subsection C of this
6 Section, the order may restrict the amount of withdrawals by any or all users in the
7 area. In determining restrictions on withdrawals, the commissioner shall consider
8 the following:

9 (a) ~~Ground water~~ Groundwater needed for human consumption and public
10 health and safety shall have the highest priority.

11 * * *

12 (e) User's conservation efforts and actual reductions in water usage, taking
13 into account historic ~~ground water~~ groundwater production.

14 C. The area comprised of East Baton Rouge Parish, West Baton Rouge
15 Parish, East Feliciana Parish, West Feliciana Parish, and Pointe Coupee Parish is
16 hereby designated an area of groundwater concern and a critical area of groundwater
17 concern as defined in R.S. 38:3097.2(1).

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 180 Original

2018 Regular Session

Marcelle

Abstract: Designates E. Baton Rouge Parish, W. Baton Rouge Parish, E. Feliciana Parish, W. Feliciana Parish, and Pointe Coupee Parish as a critical area of groundwater concern and provides for the board of commissioners of the Capital Area Groundwater Conservation District.

Present law requires the commissioner, through the office of conservation, to administer all matters related to the management of the state's groundwater resources by providing for the most "advantageous use" of the resource consistent with the protection, conservation, and replenishment thereof.

Present law defines an "area of groundwater concern" as an area in which, under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained due to either movement of a salt water front, water level decline, or subsidence, which results in unacceptable environmental, economic, social, or health impact, or which

causes serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts.

Present law defines "critical area of groundwater concern" as an area of groundwater concern that cannot maintain sustainability without withdrawal restrictions.

Present law provides for the authority of the commissioner to identify areas of groundwater concern and critical areas of groundwater concern and the procedures by which well owners apply to have such areas designated. Present law provides that if the commissioner does identify an area where the groundwater is threatened, he must establish a plan to manage the resource. The plan may include educational and conservation programs, incentives to reduce groundwater use, and, if given the critical designation, restrictions on withdrawals.

Present law requires the commissioner to hold a public hearing on any draft order proposing to designate a threatened area and that at least 30 days prior to the hearing, the commissioner shall provide a copy of the draft order to the House and Senate committees on natural resources.

Proposed law retains present law and designates the area comprised of the parishes of E. Baton Rouge, W. Baton Rouge, E. Feliciana, W. Feliciana, and Pointe Coupee, as an area of groundwater concern and a critical area of groundwater concern. Proposed law requires the commissioner to hold at least one public hearing in the area designated by proposed law, and to issue an order to manage the groundwater resource.

Present law provides that the board of commissioners of the Capital Area Groundwater Commission consists of 16 members appointed by the governor and confirmed by the Senate as follows:

- (1) Five members, one appointed from each of the five parishes in the district as nominated by the parish governing authorities. The five parishes in the district are E. Baton Rouge, W. Baton Rouge, E. Feliciana, W. Feliciana, and Pointe Coupee.
- (2) Three members appointed from nominations by industrial users in the district.
- (3) Three members appointed from nominations by privately or publicly owned entities furnishing water for rural or municipal use within the district, with one of the three always being appointed from nominations by privately owned users furnishing a municipal water supply.
- (4) The director of the Dept. of Public Works or his designee.
- (5) The commissioner of conservation or his designee who shall be a member of his staff.
- (6) One member appointed from nominations by the La. Farm Bureau Federation and the La. Cattlemen's Association.
- (7) The secretary of the Dept. of Environmental Quality or his designee who shall be a member of his staff.
- (8) One member appointed from nominations by the members of the board.

Proposed law retains present law and adds a public health advocate nominated by the Delta Chapter of the Sierra Club and the La. Environmental Action Network to the membership, for a total of 17 members.

Present law provides for the board to elect a chairman, vice-chairman, and treasurer. Proposed law provides for the governor to appoint the chairman who serves at the governor's pleasure and board to elect the vice-chairman and treasurer.

Proposed law prohibits from commission membership any person with a conflict of interest as provided by present law and any person employed by, who has an ownership interest in, or is a consultant of a private entity that produces or uses groundwater in the jurisdiction of the governing body for any beneficial use, in excess of 50,000 gallons for any day during any calendar year from a well or wells owned or operated by such entity or from a well or wells owned or operated solely for the production of water used by such entity.

(Amends R.S. 38:3074(A), (B)(intro. para.), (C), (D), and (E), 3075, and 3097.6(B)(intro. para.), (2), and (3)(a) and (e); Adds R.S. 38:3074(B)(9) and (F) and 3097.6(C))