

2016 Regular Session

HOUSE BILL NO. 553

BY REPRESENTATIVE MARCELLE

WATER/RESOURCES: Designates and provides for critical areas of ground water concern

1 AN ACT

2 To amend and reenact R.S. 38:3097.6(A) and (B)(introductory paragraph) and
3 (3)(introductory paragraph) and to enact R.S. 38:3097.6(C), (D), and (E), relative to
4 water resource management; to provide for definitions; to provide for ground water
5 withdrawal limitations in critical areas of ground water concern; to provide for the
6 membership and powers and duties of certain entities created for the purpose of
7 ground water conservation; to provide for the declaration concerning ground water
8 in certain parishes; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 38:3097.6(A) and (B)(introductory paragraph) and (3)(introductory
11 paragraph) are hereby amended and reenacted and R.S. 38:3097.6(C), (D), and (E) are
12 hereby enacted to read as follows:

13 §3097.6. Determination of area of ~~groundwater~~ ground water concern

14 A. Any owner of a well that is significantly and adversely affected as a result
15 of the movement of a saltwater front, water level decline, or subsidence in or from
16 the aquifer drawn on by such well shall have the right to file an application to request
17 the commissioner to declare that an area underlain by such aquifer is an area of
18 ~~groundwater~~ ground water concern. Such application shall contain a statement of
19 facts, and supporting evidence substantiating the area may be an area of ~~groundwater~~
20 ground water concern as defined in R.S. 38:3097.2. On the basis of the application,

1 good management practices, and sound science, the commissioner shall either deny
 2 the request, in writing, or issue a draft order which describes the proposed
 3 boundaries of the area of ~~groundwater~~ ground water concern. If the commissioner
 4 issues a draft order describing the proposed boundaries of the area, the commissioner
 5 shall hold at least one public hearing in the locality of the proposed boundaries. At
 6 least thirty days prior to holding the public hearing, the commissioner shall provide
 7 copies of the draft order to the House Committee on Natural Resources and
 8 Environment and to the Senate Committee on Natural Resources.

9 B. After holding hearings, the commissioner shall issue a written decision
 10 based on good management practices and scientifically sound data gathered from the
 11 application, the participants in the public hearing, and any other relevant
 12 information. If the commissioner has determined that an area of ground water
 13 concern exists, his decision shall be in the form of an order that shall describe the
 14 boundaries of the area which is determined to be an area of ground water concern.
 15 ~~The~~ If an area is designated as an area of ground water concern in Subsection C of
 16 this Section, the commissioner shall hold at least one public hearing, and upon good
 17 management practices and scientifically sound data, the commissioner shall issue an
 18 order. Whether the area is designated as an area of ground water concern by the
 19 commissioner or by Subsection C of this Section, the order shall also contain a plan
 20 to preserve and manage the ground water resources in that area which may include
 21 but is not limited to the following:

22 * * *

23 (3) If the commissioner or Subsection C of this Section designates an area
 24 a critical area of ground water concern, the order may restrict the amount of
 25 withdrawals by any or all users in the area. In determining restrictions on
 26 withdrawals, the commissioner shall consider the following:

27 * * *

28 C. The area comprised of East Baton Rouge, West Baton Rouge, East
 29 Feliciania, West Feliciania, and Pointe Coupee, is hereby designated an area of ground

1 water concern and a critical area of ground water concern as defined in R.S.
2 38:3097.2(1).

3 D. In any area designated by the commissioner or in Subsection C of this
4 Section as a critical area of ground water concern, the following shall apply to any
5 governing body of a political subdivision created for the purpose of conserving
6 ground water or to provide for the efficient administration, conservation, orderly
7 development and supplementation of ground water resources:

8 (1) No person shall be eligible to serve as a member of the governing body
9 of the political subdivision if either of the following apply:

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

11 (b) That person is employed by, has an ownership interest in, or is a
12 consultant of a private entity that produces or uses ground water in the jurisdiction
13 of the governing body for any beneficial use, in excess of fifty thousand gallons for
14 any day during any calendar year from a well or wells owned or operated by such
15 entity or from a well or wells owned or operated solely for the production of water
16 used by such entity.

17 (2) A governing body provided for in this Subsection shall do all things
18 necessary to prevent waste of ground water resources and to prevent or alleviate
19 damaging or potentially damaging subsidence of the land surface caused by
20 withdrawal of ground water within the area. The governing body shall take action,
21 including but not limited to, issuing orders to prohibit the use and withdrawal of
22 ground water and to enforce use and withdrawal limitations.

23 E.(1) For any area designated by the commissioner or in Subsection C of this
24 Section as a critical area of ground water concern, each facility shall, within two
25 years of such designation, limit its use and withdrawal of ground water to no more
26 than one million gallons of ground water per day.

27 (2) For purposes of this Subsection, "facility" shall mean any public or
28 private property or site and all contiguous land and structures, other appurtenances

1 and improvements, where an activity is conducted, and all the contiguous property
2 under the control of the owner or operator.

3 (3) The provisions of this Subsection shall not apply to agricultural,
4 residential, domestic, municipal uses, or public supply uses.

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 553 Original

2016 Regular Session

Marcelle

Abstract: Designates East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, and Pointe Coupee as a critical ground water area of concern and provides for certain governing bodies and ground water use in critical areas.

Present law requires the commissioner, through the office of conservation, to administer all matters related to the management of the state's ground water 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 ground water 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 ground water concern" as an area of ground water concern that cannot maintain sustainability without withdrawal restrictions.

Present law provides for the authority of the commissioner to identify areas of ground water concern and critical areas of ground water 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 ground water is threatened, he must establish a plan to manage the resource. The plan may include educational and conservation programs, incentives to reduce ground water 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 East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, and Pointe Coupee, as an area of ground water concern and a critical area of ground water 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 ground water resource.

Proposed law limits the membership of any governing body of a political subdivision created for the purpose of conserving ground water or to provide for the efficient administration, conservation, orderly development and supplementation of ground water resources in a critical area of ground water concern. Prohibits from the membership of such bodies any

person with a conflict of interest as provided by present law and any person employed by, has an ownership interest in, or is a consultant of a private entity that produces or uses ground water 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.

Proposed law authorizes such governing bodies to do all things necessary to prevent waste of ground water resources and to prevent or alleviate damaging or potentially damaging subsidence of the land surface caused by withdrawal of ground water within the area. Proposed law includes the authority to take action, including but not limited to, issuing orders to prohibit the use and withdrawal of ground water and to enforce use and withdrawal limitations.

Proposed law limits any facility defined by proposed law and located in a critical area of ground water concern to no more than 1,000,000 gallons of ground water per day within two years of the area's designation as critical. Proposed law defines "facility" as any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where an activity is conducted, and all the contiguous property under the control of the owner or operator.

Proposed law exempts agricultural, residential, domestic, municipal uses, or public supply uses from the required ground water limits in proposed law.

(Amends R.S. 38:3097.6(A) and (B)(intro. para.) and (3)(intro. para.); Adds R.S. 38:3097.6(C), (D), and (E))