

Regular Session, 2001

**ACT No. 446**

SENATE BILL NO. 965

BY SENATORS HOYT, MCPHERSON AND THEUNISSEN AND REPRESENTATIVES DANIEL, ALARIO, E. ALEXANDER, R. ALEXANDER, ANSARDI, BALDONE, BAUDOIN, BROOME, BRUCE, K. CARTER, R. CARTER, CAZAYOUX, CLARKSON, CROWE, DAMICO, DARTEZ, DEVILLIER, DOWNER, DURAND, ERDEY, FRITH, FRUGE, FUTRELL, GALLOT, GUILLORY, HEBERT, HOLDEN, HOPKINS, HUDSON, HUNTER, HUTTER, L. JACKSON, M. JACKSON, JOHNS, KATZ, KENNARD, KENNEY, LAFLEUR, LANDRIEU, LEBLANC, MCCALLUM, MCDONALD, MCMAINS, MCVEA, MONTGOMERY, MORRISH, MURRAY, NEVERS, PERKINS, PIERRE, PRATT, QUEZAIRE, RICHMOND, RIDDLE, SCALISE, SHAW, JANE SMITH, JOHN SMITH, STRAIN, SWILLING, THOMPSON, TOWNSEND, TUCKER, WALSWORTH, WINSTON, WOOTON AND WRIGHT

AN ACT

To enact R.S. 36:4(V) and Chapter 13-C of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 38:3099.1 through 3099.4, relative to ground water resources in the state of Louisiana; to create the Ground Water Management Commission in the office of the governor; to create the Ground Water Management Advisory Task Force; to provide for the powers, duties, functions, and responsibilities of each of these entities as they relate to ground water management; to provide for adoption of rules and regulations for the determination of critical ground water areas and possible limitation of access to ground water sources and response to emergency situations; to require the development of a plan for implementation of a statewide comprehensive ground water management system; to provide for the Louisiana Geological Survey; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:4(V) is hereby enacted to read as follows:

§4. Structure of executive branch of state government

\* \* \*

**R.S. 36:4(V) is all new law.**

V. The Ground Water Management Commission, as provided in R.S. 38:3099.3, shall be placed within the office of the governor and shall exercise its powers, duties, functions, and responsibilities as provided by law.

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Section 2. Chapter 13-C of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 38:3099.1 through 3099.4, is hereby enacted to read as follows:

CHAPTER 13-C. GROUND WATER MANAGEMENT

**Chapter 13-C is all new law.**

§3099.1. Legislative findings; purpose

**R.S. 38:3099.1 is all new law.**

The utilization of ground water resources is hereby found and declared to be a matter of public interest. In the public interest, a comprehensive ground water management system must be implemented. Such ground water management system must take into consideration the requirements, needs, and obligations of all stakeholders of ground water in the state of Louisiana. Any such system shall be based upon good management practices and sound science based upon generally accepted scientific principles and must include as a goal the long-term protection of each aquifer. Ground water must be managed, protected, and regulated in the best interests

of all the citizens of the state.

§3099.2. Definitions

**R.S. 38:3099.2 is all new law.**

Unless the context otherwise requires, the following terms shall have the following meanings for purposes of this Chapter:

(1) "Persons" means any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind.

(2) "Ground water" is water suitable for any beneficial purpose percolating below the earth's surface.

(3) "Well" or "water well" shall mean any well drilled or constructed for the principal purpose of producing ground water.

(4) "Beneficial purpose" or "beneficial use" means the technologically feasible use of ground water for domestic, municipal, industrial, agricultural, recreational or therapeutic purposes.

(5) "User" means any person making any beneficial use of ground water from a well or wells owned or operated by such person or from a well or wells owned or operated solely for the production of water used by such person.

(6) "Sustainability" means the development and use of ground water in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences.

(7) "Critical ground water area" means an area where sustainability of an aquifer is not being maintained under current or projected usage or under normal environmental conditions which are causing a serious adverse impact to an aquifer.

§3099.3. Ground Water Management Commission; membership;  
responsibilities

**R.S. 38:3099.3 is all new law.**

A. The Ground Water Management Commission is hereby created in the office of the governor and shall be composed of the following members:

- (1) The governor or his designee.
- (2) The director of the Governor's Office of Coastal Activities or his designee.
- (3) The commissioner of agriculture and forestry or his designee.
- (4) The secretary of the Department of Economic Development or his designee.
- (5) The secretary of the Department of Environmental Quality or his designee.
- (6) The secretary of the Department of Health and Hospitals or his designee.
- (7) The secretary of the Department of Natural Resources or his designee.
- (8) The secretary of the Department of Transportation and Development or his designee.
- (9) The secretary of the Department of Wildlife and Fisheries or his designee.
- (10) One member appointed by the governor from a list of three nominations submitted by the Police Jury Association of Louisiana.
- (11) One member appointed by the governor from a list of three nominations submitted by the Louisiana Municipal Association.

(12) One member appointed by the governor from a list of three names submitted by the Louisiana Farm Bureau and who is a farmer actively engaged in farming in the geographical area of the state underlain by the Chicot aquifer.

(13) One member appointed by the governor from a list of three nominations submitted by the Sparta Groundwater Conservation District Board of Commissioners.

(14) One member appointed by the governor from a list of three nominations submitted by the board of commissioners of the Capital Area Groundwater District.

(15) One member, appointed by the governor, who is a geologist or an engineer with expertise in ground water resource management.

B. The governor or his designee shall serve as chairman of the commission. The office of conservation shall serve as staff for the commission.

C. Beginning July 1, 2001, for any water well which is drilled for purposes other than domestic use and which is not a replacement well, the owner shall submit to the commissioner of conservation, at least sixty days prior to drilling the well, information showing the name of the driller, the projected location of the well in latitude, longitude, and depth, the projected capacity of the well, and the ownership of the well, together with other information as the commissioner may reasonably require. However, for just cause the commission may vote to waive this requirement for prior registration. For any well not registered with the director of public works under the provisions of Chapter 13-A of Title 38 of the Louisiana Revised Statutes of 1950 prior to July 1, 2001, this information shall be collected at a time when

the information is needed to determine a critical ground water area or to determine the impact of drilling a proposed new well.

D. The commission shall be responsible for determination of critical ground water areas in the state's aquifers. In cases of such determination, the commission shall describe the proposed boundaries of the critical ground water area and shall hold public hearings within each parish located within the boundaries of that area described as a critical ground water area. After holding the public hearings, the commission shall promulgate the boundaries of the area which is determined to be a critical ground water area. The commission shall develop and promulgate rules for actions which shall be taken to preserve and manage the ground water in the critical ground water areas, including but not limited to restrictions on the amount of withdrawals by each user in the area and requiring permits for the drilling of new wells including spacing and depth restrictions. Permits for replacement wells shall automatically be granted upon demonstration that the original well will be properly closed. In addition, the commission shall provide use guidelines for those ground water areas where drilling of new wells could result in the creation of a critical ground water area. In critical ground water areas, if limitations must be placed on withdrawals of ground water, ground water needed for human consumption and public health and safety shall have the highest priority. All other uses for ground water shall be of equal priority and limitations shall be determined on a proportional basis. In making those determinations, the commission shall consider the ability of a particular user to relocate to an alternative source of water and shall give particular consideration to historical users. In

addition, the commission shall take into consideration prior voluntary conservation measures and actual reductions of usage.

E. In addition, the commission shall develop a contingency plan to respond to emergency situations where depletion of a ground water source or lack of access to a ground water source is a result of a natural force or a man-made accident. Such contingency plan shall provide that ground water needed for human consumption shall have the highest priority.

F. The commission shall adopt and promulgate rules and regulations under the Administrative Procedure Act which provide for determination and response to critical ground water areas and which provide for a contingency plan for emergency situations. The commission shall cease to exist on July 1, 2003, and shall have no further powers, duties, functions, or responsibilities after that date. When the commission ceases to exist, its powers, duties, functions, and responsibilities shall not automatically transfer to the commissioner of conservation.

G. In making any determinations under the provisions of this Section, the commission shall allow the submittal of technical data and written recommendations from the Louisiana Geological Survey.

H. Anything contained in this Chapter or in Chapters 13-A or 13-B of this Title to the contrary notwithstanding, the Department of Environmental Quality shall retain exclusive authority over those matters governed by the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

§3099.4. Permitting of wells in critical ground water areas

**R.S. 38:3099.4 is all new law.**

The commission shall adopt and promulgate rules and regulations under the Administrative Procedure Act to provide for permitting of new wells in critical ground water areas and in those ground water areas where drilling of new wells could result in the creation of a critical ground water area. Such rules and regulations shall include consideration of well capacity, geographical location, well depth, use of the water produced, and potential damage to the sustainability of the aquifer or aquifer system. Such rules shall be subject to review under the Administrative Procedure Act by the House Committee on Environment and the Senate Committee on Environmental Quality.

**Section 3 is all new law.**

Section 3. The Ground Water Management Commission is hereby authorized and encouraged to appoint or designate local or regional bodies composed of local stakeholders who are representative of current water users to function in an advisory capacity to the commissioner and the commission. Any decisions made by the commissioner or the commission which have a local impact may only be made with the advice and consultation of those local or regional bodies.

**Section 4 is all new law.**

Section 4.(A) As stated in R.S. 38:3099.1, a comprehensive ground water management system must be implemented. To that end, there is hereby created a Ground Water Management Advisory Task Force with membership as follows:

- (1) A person representing the office of the governor appointed by the governor.
- (2) The president of the Louisiana Senate or his designee.



(3) The speaker of the Louisiana House of Representatives or his designee.

(4) The chair of the Senate Committee on Natural Resources or his designee.

(5) The chair of the House Committee on Natural Resources or his designee.

(6) The chair of the Senate Committee on Environmental Quality or his designee.

(7) The chair of the House Committee on Environment or his designee.

(8) The chair of the Governor's Task Force on Environmental Protection and Preservation.

(9) The chancellor of the Louisiana State University Agricultural Center or his designee.

(10) The assistant commissioner for soil and water conservation.

(11) The Louisiana district chief, United States Geological Survey, Water Resources Division, or his designee.

(12) The district engineer of the United States Army Corps of Engineers, New Orleans District, or his designee.

(13) The director of the Louisiana Geological Survey or his designee.

(14) The executive director of the Louisiana Wildlife Federation or his designee.

(15) The president of the Louisiana Farm Bureau or his designee.

(16) The president of the Louisiana Chemical Association or his designee.

(17) The executive director of the Coalition to Restore Coastal Louisiana or his designee.

(18) The president of the Louisiana Rice Growers Association or his

designee.

(19) The executive director of Mid-Continent Oil and Gas Association or his designee.

(20) The president of the Louisiana Catfish Farmers Association or his designee.

(21) One representative of the Louisiana Rural Water Association.

(22) The president of the Cotton Producers Association or his designee.

(23) One representative of the Capital Area Groundwater Conservation District.

(24) One representative of the Sparta Groundwater Conservation District.

(25) The executive director of the Louisiana Forestry Association or his designee.

(26) One representative of the Sabine River Authority.

(27) The president of the American Sugar Cane League or his designee.

(28) One representative of the Red River Compact Commission.

(29) The executive director of the Lake Pontchartrain Foundation or his designee.

(30) The president of the Louisiana Soybean Association or his designee.

(31) The president of the Louisiana Cattlemen Association or his designee.

(32) The executive director of the Barataria-Terrebonne National Estuary Program or his designee.

(33) The president of the Louisiana Crawfish Farmers Association or his designee.

(34) The chairman of the Louisiana Pulp and Paper Association or his

designee.

(35) A representative of the Louisiana Water Well Drillers Association.

(36) A representative of the Louisiana Engineering Society who is a registered engineer with reservoir experience.

(37) The dean of the Southern University College of Agriculture, Family, and Consumer Science or his designee.

(38) A representative from Louisiana State University, Department of Geology.

(39) A representative from Louisiana Tech University, Department of Geology.

(40) A representative from University of Louisiana at Monroe, Department of Geology.

(41) A representative from University of Louisiana at Lafayette, Department of Geology.

(42) A representative of the Association of Public Utilities.

(43) A representative of the Irrigation Association.

(44) A representative of the League of Women Voters.

(45) A representative of the Citizens for a Clean Environment.

(46) A representative of Louisiana Independent Oil and Gas Association.

(47) A representative from the Louisiana State University at Shreveport Watershed Management Initiative.

(48) A representative of the Municipal Water Association.

(49) A representative of the New Orleans Sewerage and Water Board.

(B) The commissioner of conservation, the Ground Water Management Commission (R.S. 38:3099.3), the Ground Water Management Advisory Task Force created herein, and any local or regional advisory entities which are

created or designated by the Ground Water Management Commission, shall develop and present to the House Committee on Environment, the House Committee on Natural Resources, the Senate Committee on Environmental Quality and the Senate Committee on Natural Resources, the plan for implementation of a comprehensive water management system. Such water management system shall include but not be limited to an evaluation of the state's ground water resources including current and projected demands on the aquifers of the state; determination of data necessary to manage the state's water resources and sources of such data; a definition of sustainability of aquifers which can be used to determine critical ground water areas and predict critical ground water areas; reassessment of any area which may have been declared a critical ground water area by the Ground Water Management Commission; development of alternatives to ground water use; evaluation of the state's surface water resources available for development; use of surface water, recycling of used or treated waters, identification and development of surface water projects to meet current and future demands; incentives for conservation of surface water resources; use of alternative technologies; development of an education and conservation program; development of a program to provide mitigation for loss of ground water resources and incentives to transfer use from ground water sources to surface water sources or alternative sources where such transfer will not harm the surface water sources; and a designation of the appropriate state entity structure to manage and protect the state's water resources.

(C) The plan for implementation of a statewide comprehensive water management system shall be presented to the legislative oversight committees for their review prior to January 2003, and any portions of that plan which require statutory implementation shall be prepared for legislative consideration

during the 2003 Regular Session of the Legislature.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_