

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1914
By: Wentworth
Natural Resources
5/21/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.S.B. 1914 grants the Edwards Aquifer Authority the powers and duties to manage and protect the Edwards Aquifer including provisions regarding groundwater withdrawals, permitting, aquifer management fees, recharge projects, demand management and transfers, the board of directors of the Edwards Aquifer Authority, and revenue bonding authority.

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 Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, and Chapter 966, Acts of the 77th Legislature, Regular Session, 2001, by adding Subsection (28) to define "recharge facility."

SECTION 2. Amends Section 1.07, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit action taken pursuant to this Act from being construed as depriving or divesting the owner or the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, of these ownership rights or as impairing the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use, subject to the rules adopted by the authority or a district exercising the powers provided by Chapter 36, rather than 52, Water Code.

SECTION 3. Amends Section 1.08(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to provides that the authority has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 36, 49, and 51, rather than 50 and 52, Water Code, applicable to an authority created under Article XVI, Section 59, of the Texas Constitution.

SECTION 4. Amends Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 261, Acts of the 74th Legislature, Regular Session, 1995, by adding Subsection (i), as follows:

- (i) Requires a person, to be eligible to be elected or appointed as a voting member of the board, to have resided continuously in the authority single-member election district from which the person seeks to be elected or appointed for six months immediately preceding certain dates.

SECTION 5. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, and Chapter 966, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsection (f) and adding Subsection (h), as follows:

- (f) Authorizes the authority to contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge, rather than water supply, facilities. Deletes text referring to a prohibition against management fees or special fees being used for purchasing or operating these

facilities. Deletes a definition for "water supply facility." Makes a nonsubstantive change.

(h) Provides that notwithstanding any other provision of law, the authority has no duty, responsibility, or authority relating to the protection of water quality. Provides that the commission is the agency of the state with responsibility and authority relating to the protection of water quality within the boundaries of the authority.

SECTION 6. Amends Sections 1.14(b) and (c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Prohibits the amount of permitted withdrawals from the aquifer under regular permits from exceeding 450,000 acre-feet of water for each calendar year, except as provided by Subsections (d), (f), and (h) of this section and Section 1.26 of this article, beginning January 1, 2008. Deletes text referring to limits of withdrawals in a specific time period.

(c) Prohibits the amount of permitted withdrawals from the aquifer under regular permits from exceeding 450,000 acre-feet of water for each calendar year, except as provided by Subsections (d), (f), and (h) of this section and Section 1.26 of this article, beginning January 1, 2010. Deletes text referring to limits of withdrawals in a specific time period.

SECTION 7. Amends Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Subsection (i) to require the authority to process as administratively complete all declarations of historical use received by the authority on or before February 16, 1997, and to consider any such declaration as timely filed.

SECTION 8. Amends Section 1.21, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Requires the board of directors (board), not later than October 1, 2007, to issue an order to be effective on January 1, 2008, proportionately adjusting the authorized, rather than maximum authorized, withdrawal amount of each regular permit as is necessary to reduce aggregate authorized withdrawals under regular permits, rather than overall maximum demand, to 450,000, rather than 400,000 acre-feet a year or the adjusted amount, as appropriate, if, before, rather than on or after, January 1, 2008, the aggregate, rather than overall, volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 450,000 acre feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article. Deletes existing text relating to requiring the authorized withdrawal of each regular permit to be immediately reduced by a certain percentage. Makes a conforming change.

(d) Requires the board, not later than October 1, 2009, to issue an order to be effective January 1, 2010, proportionally adjusting the authorized withdrawal amount of each regular permit as is necessary to reduce aggregate authorized withdrawals under regular permits to 400,000 acre-feet a year or the adjusted amount, as appropriate, if, before January 1, 2010, the aggregate volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article.

(e) Requires proportional adjustments under this section and for purposes of satisfying the requirements of Section 1.14 of this article and this section to be applied on the same terms and conditions to all permits issued under Section 1.16 of this article.

SECTION 9. Amends Section 1.28(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to authorize the authority to issue revenue bonds to finance certain activities.

SECTION 10. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.331, as follows:

Sec. 1.331. EXEMPTION FOR FEDERAL FACILITIES; TRANSFER OF OWNERSHIP APPLICATION. (a) Provides that federal facilities, which are immune from regulation under the doctrine of sovereign immunity, are exempt from the requirements of this article and any rules adopted under this article.

(b) Authorizes a person to obtain an initial regular permit based on an application voluntarily filed by a federal facility if, before September 1, 2003, the authority approves the transfer of ownership of the application for an initial regular permit from the federal facility to the person seeking the permit. Requires the authority, if, after the date a transfer is approved by the authority, groundwater subject to the transfer continues to be withdrawn by the federal facility making the transfer, to condition the authorized withdrawal amount of the transferee's interim authorization or initial regular permit on the reduction in the amount equal to the federal facility withdrawals.

SECTION 11. Amends Section 1.34(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to authorize a permit holder, subject to the rules of the authority, to transfer a regular permit or interim authorization. Authorizes fifty percent of the groundwater withdrawal amount initially permitted for irrigation to be used only for irrigation. Deletes existing text relating to prohibiting a certain permit to be without restrictions as to the place or purpose of use, while the remaining 50 percent may only be transferred to certain places and in a manner consistent with rules adopted by the authority for the transfer of conserved water pursuant to Subsection (b) of this section. Deletes existing text relating to prohibiting a holder of a permit for irrigation from taking certain actions. Deletes existing text relating to remaining irrigation water rights.

SECTION 12. Amends Section 1.35, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Subsection (f) to prohibit a person who transfers a permit or interim authorization to withdraw groundwater from the San Antonio pool to a well that drains from the Uvalde pool from transporting groundwater withdrawn under the transferred permit or interim authorization out of the county in which the well that draws from the Uvalde pool is located.

SECTION 13. Effective date: September 1, 2003.