

By: Puente

H.B. No. 3586

Substitute the following for H.B. No. 3586:

By: Geren

C.S.H.B. No. 3586

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to powers and duties of the Edwards Aquifer Authority to  
3 manage and protect the Edwards Aquifer, the board of directors of  
4 the Edwards Aquifer Authority, and revenue bonding authority.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1.01, Chapter 626, Acts of the 73rd  
7 Legislature, Regular Session, 1993, is amended to read as follows:

8 Sec. 1.01. FINDINGS AND DECLARATION OF POLICY. The  
9 legislature finds that the Edwards Aquifer and its contributory and  
10 recharge zones are [~~is~~] a unique and complex hydrogeologic  
11 [~~hydrological~~] system, with diverse economic and social interests  
12 dependent on the aquifer for water supply. In keeping with that  
13 finding, the Edwards Aquifer and its contributory and recharge  
14 zones are [~~is~~] declared to be a distinctive natural resource in this  
15 state, a unique aquifer, and not an underground stream. To sustain  
16 these diverse interests and that natural resource, a special  
17 regional management district is required for the effective control  
18 of the resource and activities that may jeopardize it in order to  
19 protect the water quality of the aquifer, terrestrial and aquatic  
20 life, [~~domestic and~~] municipal, industrial, irrigation, and  
21 domestic water supplies, the operation of existing economic  
22 activities [~~industries~~], and the economic development of the state.  
23 Use of water in the authority [~~district~~] for beneficial purposes  
24 requires that all reasonable measures be taken to conserve

1 groundwater withdrawn from the Edwards Aquifer and protect the  
2 quality of groundwater in the Edwards Aquifer [~~be conservative in~~  
3 ~~water use~~].

4 SECTION 2. Section 1.03, Chapter 626, Acts of the 73rd  
5 Legislature, Regular Session, 1993, is amended by adding  
6 Subdivision (28) to read as follows:

7 (28) "Recharge facility" means a dam, reservoir,  
8 treatment facility, transmission facility, or other recharge  
9 project, and associated facilities, structures, or works.

10 SECTION 3. Section 1.07, Chapter 626, Acts of the 73rd  
11 Legislature, Regular Session, 1993, is amended to read as follows:

12 Sec. 1.07. OWNERSHIP OF UNDERGROUND WATER. The ownership  
13 and rights of the owner of the land and the owner's lessees and  
14 assigns, including holders of recorded liens or other security  
15 interests in the land, in underground water and the contract rights  
16 of any person who purchases water for the provision of potable water  
17 to the public or for the resale of potable water to the public for  
18 any use are recognized. However, action taken pursuant to this Act  
19 may not be construed as depriving or divesting the owner or the  
20 owner's lessees and assigns, including holders of recorded liens or  
21 other security interests in the land, of these ownership rights or  
22 as impairing the contract rights of any person who purchases water  
23 for the provision of potable water to the public or for the resale  
24 of potable water to the public for any use, subject to the rules  
25 adopted by the authority or a district exercising the powers  
26 provided by Chapter 36 [~~52~~], Water Code. The legislature intends  
27 that just compensation be paid if implementation of this article

1 causes a taking of private property or the impairment of a contract  
2 in contravention of the Texas or federal constitution.

3 SECTION 4. Section 1.08(a), Chapter 626, Acts of the 73rd  
4 Legislature, Regular Session, 1993, is amended to read as follows:

5 (a) The authority has all of the powers, rights, and  
6 privileges necessary to manage, conserve, preserve, and protect the  
7 aquifer and to increase the recharge of, and prevent the waste or  
8 pollution of water in, the aquifer. The authority has all of the  
9 rights, powers, privileges, authority, functions, and duties  
10 provided by the general law of this state, including Chapters 36,  
11 49, and ~~[50,]~~ 51, ~~[and 52,]~~ Water Code, applicable to an authority  
12 created under Article XVI, Section 59, of the Texas Constitution.  
13 This article prevails over any provision of general law that is in  
14 conflict or inconsistent with this article regarding the area of  
15 the authority's jurisdiction.

16 SECTION 5. Chapter 626, Acts of the 73rd Legislature,  
17 Regular Session, 1993, is amended by adding Section 1.081 to read as  
18 follows:

19 Sec. 1.081. WATER QUALITY. (a) The authority may adopt and  
20 enforce rules to protect and preserve the quality of water in the  
21 aquifer, including rules to prevent the pollution of the aquifer.

22 (b) The authority shall adopt rules regarding the control of  
23 fires in the recharge zone in consultation with fire departments  
24 and fire marshals with jurisdiction over the recharge zone in order  
25 to protect the water quality of the aquifer.

26 SECTION 6. Section 1.09, Chapter 626, Acts of the 73rd  
27 Legislature, Regular Session, 1993, is amended by adding Subsection

1 (i) to read as follows:

2 (i) To be eligible to be elected or appointed as a voting  
3 member of the board, a person must have resided continuously in the  
4 single-member election district from which the person seeks to be  
5 elected or appointed for six months immediately preceding the  
6 following date:

7 (1) for a candidate for election, the 60th day before  
8 the general election date; or

9 (2) for a candidate for appointment, the date the  
10 appointment is made.

11 SECTION 7. Section 1.11, Chapter 626, Acts of the 73rd  
12 Legislature, Regular Session, 1993, is amended by amending  
13 Subsection (f) and adding Subsection (i) to read as follows:

14 (f) The authority may contract with a person who uses water  
15 from the aquifer for the authority or that person to own, finance,  
16 design, construct, operate, or ~~[own, finance, and]~~ maintain water  
17 supply facilities. ~~[Management fees or special fees may not be used~~  
18 ~~for purchasing or operating these facilities. For the purpose of~~  
19 ~~this subsection, "water supply facility" includes a dam, reservoir,~~  
20 ~~treatment facility, transmission facility, or recharge project.]~~

21 (i) The authority by rule shall determine the extent to  
22 which permit holders may use programs to reduce or eliminate fees or  
23 taxes under Chapters 311 and 312, Tax Code.

24 SECTION 8. Section 1.14, Chapter 626, Acts of the 73rd  
25 Legislature, Regular Session, 1993, is amended by amending  
26 Subsections (b)-(f) and (h) and adding Subsections (f-1) and (f-2)  
27 to read as follows:

1 (b) Except as provided by Subsections (d), (f), and (h) of  
2 this section and Section 1.26 of this article, beginning January 1,  
3 2008 [~~for the period ending December 31, 2007~~], the amount of  
4 permitted withdrawals from the aquifer under regular permits may  
5 not exceed 450,000 acre-feet of water for each calendar year.

6 (c) Except as provided by Subsections (d), (f), and (h) of  
7 this section and Section 1.26 of this article, beginning January 1,  
8 2010 [~~for the period beginning January 1, 2008~~], the amount of  
9 permitted withdrawals from the aquifer under regular permits may  
10 not exceed 400,000 acre-feet of water for each calendar year.

11 (d) If, through studies and implementation of water  
12 management strategies, including conservation, springflow  
13 augmentation, diversions downstream of the springs, reuse,  
14 supplemental recharge, conjunctive management of surface and  
15 subsurface water, and drought management plans, programs,  
16 practices, procedures, or methods, the authority determines that  
17 the amount of water available for permitting under Subsection (b)  
18 or (c) of this section should be changed to more effectively  
19 accomplish the purposes of this article [~~additional supplies are~~  
20 ~~available from the aquifer~~], the authority, in consultation with  
21 appropriate state and federal agencies, shall [~~may~~] review and, by  
22 order, change the amount of water available for permitting under  
23 Subsection (b) or (c) of this section. Beginning September 1, 2006,  
24 and every four years thereafter, the authority shall determine  
25 whether the amount of water available for permitting under  
26 Subsection (b) or (c) of this section should be changed. If the  
27 goals of Subsection (a) have not all been met, the authority shall

1 by March 1 of the succeeding year implement new requirements to  
2 ensure compliance with Subsection (a). [~~may increase the maximum~~  
3 ~~amount of withdrawals provided by this section and set a different~~  
4 ~~maximum amount of withdrawals.~~]

5 (e) The authority may [~~not~~] allow withdrawals from the  
6 aquifer through wells drilled after June 1, 1993, only if the  
7 withdrawal is made:

8 (1) under the transfer of a regular, term, emergency,  
9 monitoring, or recharge recovery permit;

10 (2) under a transfer of interim authorization; or

11 (3) from an exempt well [~~except additional water as~~  
12 ~~provided by Subsection (d) and then on an interruptible basis].~~

13 (f) The authority shall authorize withdrawals under initial  
14 regular permits on an uninterruptible basis as follows:

15 (1) for the San Antonio pool, if [~~if~~] the level of the  
16 aquifer is equal to or greater than 650 feet above mean sea level as  
17 measured at Well J-17; and

18 (2) for the Uvalde pool, if [~~, the authority may~~  
19 ~~authorize withdrawal from the San Antonio pool, on an~~  
20 ~~uninterruptible basis, of permitted amounts. If~~] the level of the  
21 aquifer is equal to or greater than 845 feet at Well J-27 [~~, the~~  
22 ~~authority may authorize withdrawal from the Uvalde pool, on an~~  
23 ~~uninterruptible basis, of permitted amounts].~~

24 (f-1) Under Section 1.26 of this article the authority may  
25 interrupt withdrawals under initial regular permits as follows:

26 (1) for the San Antonio pool, if the level of the  
27 aquifer is less than 650 feet above mean sea level as measured at

1 Well J-17; and

2 (2) for the Uvalde pool, if the level of the aquifer is  
3 less than 845 feet at Well J-27.

4 (f-2) Under Section 1.26 of this article, the [The]  
5 authority shall require interruptions in [limit the additional]  
6 withdrawals, or require implementation of programs, practices,  
7 procedures, or methods under Subsection (h) of this section, to  
8 protect [to ensure that] springflows at the Comal Springs and San  
9 Marcos Springs [are not affected] during demand management and  
10 critical period management [drought] conditions.

11 (h) By [To accomplish the purposes of this article, by] June  
12 1, 2005 [1994], under Section 1.26 of this article the authority [7  
13 through a program,] shall implement and enforce water management  
14 programs, practices, procedures, or [and] methods to ensure that,  
15 not later than December 31, 2012, the continuous minimum  
16 springflows of the Comal Springs and the San Marcos Springs are  
17 maintained to protect endangered and threatened species to the  
18 extent required by federal law. The authority from time to time as  
19 appropriate may revise the programs, practices, procedures, or  
20 [and] methods. To meet this requirement, the authority shall  
21 require:

22 (1) phased reductions in the amount of water that may  
23 be used or withdrawn by existing users or categories of other users;  
24 or

25 (2) implementation of alternative management  
26 programs, practices, procedures, or [and] methods.

27 SECTION 9. Section 1.15(b), Chapter 626, Acts of the 73rd

1 Legislature, Regular Session, 1993, is amended to read as follows:

2 (b) Except as provided by Sections 1.17, ~~[and]~~ 1.33, and  
3 1.331 of this article, a person may not withdraw water from the  
4 aquifer or begin construction of a well or other works designed for  
5 the withdrawal of water from the aquifer without obtaining a permit  
6 from the authority.

7 SECTION 10. Section 1.16(e), Chapter 626, Acts of the 73rd  
8 Legislature, Regular Session, 1993, is amended to read as follows:

9 (e) To the extent water is available for permitting under  
10 Sections 1.14(b) or (d), the board shall issue an ~~[the]~~ existing  
11 user a regular permit for withdrawal of an amount of water equal to  
12 the user's maximum beneficial use of water without waste during any  
13 one calendar year of the historical period. If an existing ~~[a~~  
14 ~~water]~~ user does not have historical use for a full year, then the  
15 authority shall set the user's maximum beneficial use of water  
16 without waste as the ~~[issue a permit for withdrawal based on an]~~  
17 amount of water that would normally be beneficially used without  
18 waste for the intended purpose for a calendar year.

19 (e-1) If the total amount of water determined to have been  
20 beneficially used without waste under Subsection (e) of this  
21 section ~~[this subsection]~~ exceeds 450,000 acre-feet of water for  
22 each calendar year ~~[the amount of water available for permitting]~~,  
23 the authority shall proportionately adjust the amount of water  
24 authorized for withdrawal under regular ~~[the]~~ permits  
25 ~~[proportionately]~~ to meet 450,000 acre-feet of water for each  
26 calendar year ~~[the amount available for permitting]~~.

27 (e-2) Except as provided by Section 1.21(c) of this article,



1 after the authority makes a proportional adjustment under  
2 Subsection (e-1) of this section, the authority shall restore the  
3 amount of water authorized for withdrawal under a regular permit to  
4 the following minimum amounts:

5 (1) for an [An] existing irrigation user, ~~[shall~~  
6 ~~receive a permit for not less than]~~ two acre-feet a year for each  
7 acre of land the user actually irrigated in any one calendar year  
8 during the historical period; or

9 (2) for an [An] existing user who has operated a  
10 well for three or more years during the historical period, ~~[shall~~  
11 ~~receive a permit for at least]~~ the average amount of water withdrawn  
12 annually during the historical period.

13 SECTION 11. The heading of Section 1.21, Chapter 626, Acts  
14 of the 73rd Legislature, Regular Session, 1993, is amended to read  
15 as follows:

16 Sec. 1.21. ~~[PERMIT]~~ RETIREMENT OF REGULAR PERMITS.

17 SECTION 12. Section 1.21, Chapter 626, Acts of the 73rd  
18 Legislature, Regular Session, 1993, is amended by amending  
19 Subsection (c) and adding Subsection (d) to read as follows:

20 (c) If, before ~~[on or after]~~ January 1, 2008, the aggregate  
21 ~~[overall]~~ volume of water authorized to be withdrawn from the  
22 aquifer under regular permits is greater than 450,000 ~~[400,000]~~  
23 acre-feet a year or greater than the adjusted amount determined  
24 under Subsection (d) of Section 1.14 of this article, not later than  
25 October 1, 2007, the board shall issue an order to be effective on  
26 January 1, 2008, proportionately adjusting the [maximum]  
27 authorized withdrawal amount of each regular permit ~~[shall be~~

1 ~~immediately reduced by an equal percentage]~~ as is necessary to  
2 reduce aggregate authorized withdrawals under regular permits  
3 ~~[overall maximum demand]~~ to 450,000 ~~[400,000]~~ acre-feet a year or  
4 the adjusted amount, as appropriate~~[-. The amount reduced may be~~  
5 ~~restored, in whole or in part, as other appropriate measures are~~  
6 ~~implemented that maintain overall demand at or below the~~  
7 ~~appropriate amount]~~.

8 (d) If, before January 1, 2010, the aggregate volume of  
9 water authorized to be withdrawn from the aquifer under regular  
10 permits is greater than 400,000 acre-feet a year or greater than the  
11 adjusted amount determined under Section 1.14(d) of this article,  
12 the board, not later than October 1, 2009, shall issue an order to  
13 be effective January 1, 2010, proportionally adjusting the  
14 authorized withdrawal amount of each regular permit as is necessary  
15 to reduce aggregate authorized withdrawals under regular permits to  
16 400,000 acre-feet a year or the adjusted amount, as appropriate.

17 SECTION 13. Section 1.26, Chapter 626, Acts of the 73rd  
18 Legislature, Regular Session, 1993, is amended to read as follows:

19 Sec. 1.26. DEMAND MANAGEMENT AND CRITICAL PERIOD MANAGEMENT  
20 PLAN. (a) The authority shall prepare and coordinate  
21 implementation of a plan for demand management and critical period  
22 management ~~[on or before September 1, 1995]~~. The mechanisms must:

23 (1) distinguish between discretionary use and  
24 nondiscretionary use;

25 (2) require reductions of all discretionary use to the  
26 maximum extent feasible;

27 (3) require utility pricing, to the maximum extent

1 feasible, to limit discretionary use by the customers of water  
2 utilities; and

3 (4) require reduction of nondiscretionary use by  
4 permitted or contractual users, to the extent further reductions  
5 are necessary, in the reverse order of the following water use  
6 preferences:

7 (A) municipal, domestic, and livestock;

8 (B) industrial and crop irrigation; and

9 (C) residential landscape irrigation[+]

10 [~~(D) recreational and pleasure; and~~

11 [~~(E) other uses that are authorized by law~~].

12 (b) The board shall adopt measures to ensure that authorized  
13 withdrawals made under regular permits are reduced to 350,000  
14 acre-feet a year if the following conditions are met:

15 (1) for the San Antonio pool, the level of the aquifer  
16 must be less than 627 feet above mean sea level as measured at Well  
17 J-17; or

18 (2) for the Uvalde pool, the level of the aquifer must  
19 be less than 842 feet above mean sea level as measured at Well J-27.

20 (c) The board shall adopt the demand management and critical  
21 period plan required under this section not later than September 1,  
22 2004.

23 (d) Subsection (b) of this section and this subsection  
24 expire January 1, 2008.

25 SECTION 14. Section 1.28, Chapter 626, Acts of the 73rd  
26 Legislature, Regular Session, 1993, is amended by amending  
27 Subsection (b) and adding Subsection (b-1) to read as follows:

1 (b) The authority may issue revenue bonds to finance:

2 (1) the purchase of land;

3 (2) ~~or~~ the purchase, construction, or installation  
4 of facilities or equipment, including recharge dams and associated  
5 facilities, structures, or works; or

6 (3) the retirement of permits or applications for  
7 initial regular permits under Section 1.21 of this article by  
8 compensating permit holders or applicants as provided by Section  
9 1.21(c) of this article.

10 (b-1) The authority may not allow for any person to  
11 construct, acquire, or own facilities for transporting groundwater  
12 out of Uvalde County or Medina County.

13 SECTION 15. Section 1.29, Chapter 626, Acts of the 73rd  
14 Legislature, Regular Session, 1993, is amended by amending  
15 Subsections (a)-(e), (h), and (i) and adding Subsection (a-1) to  
16 read as follows:

17 (a) The cost of ~~[reducing withdrawals or]~~ permit  
18 retirements under Section 1.21(c) of this article for the period  
19 beginning January 1, 2008, must be borne[+

20 ~~(-1)]~~ solely by users of the aquifer.

21 (a-1) The cost of permit retirements under Section 1.21(d)  
22 of this article for the period beginning January 1, 2010, must be  
23 borne equally by holders of initial regular permits and downstream  
24 surface water rights holders. [for reducing withdrawals from the  
25 level on the effective date of this article to 450,000 acre-feet a  
26 year, or the adjusted amount determined under Subsection (d) of  
27 Section 1.14 of this article for the period ending December 31,

1 2007; and

2 [~~(2) equally by aquifer users and downstream water~~  
3 ~~rights holders for permit retirements from 450,000 acre-feet a~~  
4 ~~year, or the adjusted amount determined under Subsection (d) of~~  
5 ~~Section 1.14 of this article for the period ending December 31,~~  
6 ~~2007, to 400,000 acre-feet a year, or the adjusted amount~~  
7 ~~determined under Subsection (d) of Section 1.14 of this article,~~  
8 ~~for the period beginning January 1, 2008.]~~

9 (b) The authority shall assess, bill, and collect equitable  
10 aquifer management fees based on aquifer use under the water  
11 management plan to finance its administrative expenses and programs  
12 authorized under this article. Aquifer management fees may  
13 additionally be used for the repayment of revenue bonds issued by  
14 the authority under Section 1.28 of this article. Each water  
15 district governed by Chapter 36 [~~52~~], Water Code, that is within the  
16 authority's boundaries may contract with the authority to pay  
17 expenses of the authority through taxes in lieu of user fees to be  
18 paid by water users in the district. The contract must provide that  
19 the district will pay an amount equal to the amount that the water  
20 users in the district would have paid through user fees. The  
21 authority may not collect a total amount of fees and taxes that is  
22 more than is reasonably necessary for the administration of the  
23 authority.

24 (c) The authority shall also assess, bill, and collect a [~~an~~  
25 ~~equitable~~] special fee assessed equally on a per acre-foot basis  
26 [~~based~~] on initial regular permits without regard to use [~~permitted~~  
27 ~~aquifer water rights~~] to be used only to finance the retirement of

1 initial regular permits from 450,000 [~~rights necessary~~] to 400,000  
2 acre-feet a year, or the adjusted amount determined under Section  
3 1.14(d) of this article [~~meet the goals provided by Section 1.21 of~~  
4 ~~this article~~]. Fees assessed on holders of initial regular permits  
5 by the [~~The~~] authority under this subsection may not exceed  
6 one-half of the cost of permit retirements from 450,000 to 400,000  
7 acre-feet a year, or the adjusted amount, for the period beginning  
8 January 1, 2010 [~~shall set the equitable special fees on permitted~~  
9 ~~aquifer users at a level sufficient to match the funds raised from~~  
10 ~~the assessment of equitable special fees on downstream water rights~~  
11 ~~holders~~].

12 (d) The commission shall assess, and the authority shall  
13 bill and collect, equitable special fees on all downstream surface  
14 water rights holders in the Guadalupe River Basin to be used solely  
15 to finance the retirement of initial regular permits from 450,000  
16 to 400,000 acre-feet a year, or the adjusted amount determined  
17 under Section 1.14(d) of this article [~~aquifer rights necessary to~~  
18 ~~meet the goals provided by Section 1.21 of this article~~]. Fees  
19 assessed under this subsection may not exceed one-half of the cost  
20 of permit retirements from 450,000 [~~acre-feet a year, or the~~  
21 ~~adjusted amount determined under Subsection (d) of Section 1.14 of~~  
22 ~~this article, for the period ending December 31, 2007,~~] to 400,000  
23 acre-feet a year for the period beginning January 1, 2010 [~~2008~~].  
24 The authority shall report to the commission the estimated costs of  
25 the retirements. The amount of fees assessed under this subsection  
26 shall be determined in accordance with rules adopted by the  
27 commission for fees under the South Texas watermaster program with

1 adjustments as necessary to ensure that fees are equitable between  
2 users, including priority and nonpriority hydroelectric users. A  
3 downstream surface water rights holder shall pay fees assessed  
4 under this subsection to the authority. A fee may not be assessed  
5 by the commission under this subsection on contractual deliveries  
6 of water stored in Canyon Lake that may be diverted downstream of  
7 the San Marcos Springs or Canyon Dam. A person or entity making a  
8 contractual sale of water stored upstream of Canyon Dam may not  
9 establish a systemwide rate that requires purchasers of  
10 upstream-stored water to pay the special fee assessed under this  
11 subsection.

12 (e) In developing an equitable fee structure under this  
13 section, the authority may establish different fee rates on a per  
14 acre-foot basis for different types of use. The fees must be  
15 equitable between types of uses. The fee rate for agricultural use  
16 shall be based on the volume of water withdrawn and may not be more  
17 than \$2 per acre-foot. The authority shall assess the fees on the  
18 amount of water a permit holder is authorized to withdraw under the  
19 permit. This subsection does not apply to the assessment of the  
20 equitable special fee to retire initial regular permits under  
21 Subsection (b) of this section.

22 (h) Special fees collected under Subsection (c) or (d) of  
23 this section may not be used to finance recharge facilities [~~a~~  
24 ~~surface water supply reservoir project~~].

25 (i) The authority shall provide money as necessary, but not  
26 to exceed five percent of the money collected under Subsection (b)  
27 [~~(d)~~] of this section, to finance the South Central Texas Water

1 Advisory Committee's administrative expenses and programs  
2 authorized under this article.

3 SECTION 16. Section 1.33(a), Chapter 626, Acts of the 73rd  
4 Legislature, Regular Session, 1993, is amended to read as follows:

5 (a) A well [~~that produces 25,000 gallons of water a day or~~  
6 ~~less~~] for domestic or livestock use is exempt from metering  
7 requirements if the well:

8 (1) was installed and in operation not later than  
9 September 1, 2003, and is capable of producing a maximum of 25,000  
10 gallons of water a day; or

11 (2) is capable of producing a maximum of 10,000  
12 gallons of water a day.

13 SECTION 17. Article 1, Chapter 626, Acts of the 73rd  
14 Legislature, Regular Session, 1993, is amended by adding Section  
15 1.331 to read as follows:

16 Sec. 1.331. EXEMPTION FOR FEDERAL FACILITIES; TRANSFER OF  
17 OWNERSHIP OF APPLICATION. (a) Federal facilities, which are  
18 immune from regulation under the doctrine of sovereign immunity,  
19 are exempt from the requirements of this article and any rules  
20 adopted under it.

21 (b) A person may obtain an initial regular permit based on  
22 an application voluntarily filed by a federal facility if, before  
23 September 1, 2003, the authority approves the transfer of ownership  
24 of the application for an initial regular permit from the federal  
25 facility to the person seeking the permit.

26 SECTION 18. Section 1.34, Chapter 626, Acts of the 73rd  
27 Legislature, Regular Session, 1993, is amended by amending



1 Subsections (a) and (c) and adding Subsection (d) to read as  
2 follows:

3 (a) Water withdrawn from the aquifer may [~~must~~] be used only  
4 within the boundaries of:

5 (1) the authority; or

6 (2) the geographic area subject to a certificate of  
7 convenience and necessity that extends within and beyond the  
8 boundaries of the authority, provided that the majority of that  
9 geographic area is within the boundaries of the authority and the  
10 certificate is held by an original regular permit holder or a  
11 wholesale customer of that permit holder.

12 (c) A permit holder may transfer a regular permit [~~lease~~  
13 ~~permitted water rights, but a holder of a permit for irrigation use~~  
14 ~~may not lease more than 50 percent of the irrigation rights~~  
15 ~~initially permitted. The user's remaining irrigation water rights~~  
16 ~~must be used in accordance with the original permit and must pass~~  
17 ~~with transfer of the irrigated land]~~.

18 (d) An irrigation permit may be transferred to any owner,  
19 point of withdrawal, place of use, or purpose of use, except that  
20 50 percent of the groundwater withdrawal amount initially permitted  
21 may be used only for irrigation.

22 SECTION 19. Section 1.43, Chapter 626, Acts of the 73rd  
23 Legislature, Regular Session, 1993, is amended to read as follows:

24 Sec. 1.43. CREATION OF UNDERGROUND WATER CONSERVATION  
25 DISTRICT. An underground water conservation district may be  
26 created in any county affected by this article as provided by  
27 Subchapter B, Chapter 36 [~~52~~], Water Code.

1 SECTION 20. Section 1.45(a), Chapter 626, Acts of the 73rd  
2 Legislature, Regular Session, 1993, is amended to read as follows:

3 (a) The authority may own, finance, design, construct,  
4 ~~[build or]~~ operate, and maintain recharge dams and associated  
5 facilities, structures, or works in the contributing or recharge  
6 area of the aquifer if the recharge is made to increase the yield of  
7 the aquifer and the recharge project does not impair senior water  
8 rights or vested riparian rights.

9 SECTION 21. Section 1.094(c), Sections 1.21(a) and (b), and  
10 Section 1.34(b), Chapter 626, Acts of the 73rd Legislature, Regular  
11 Session, 1993, are repealed.

12 SECTION 22. Regardless of the original deadline for filing  
13 declarations of historical use, the Edwards Aquifer Authority shall  
14 process all declarations filed before 4:30 p.m. on February 16,  
15 1997, as if the declarations were timely filed.

16 SECTION 23. Transfers that are effective before the  
17 effective date of this Act, that are approved by the Edwards Aquifer  
18 Authority, that have not been rescinded, and that are not subject to  
19 pending litigation are hereby validated.

20 SECTION 24. The change in law made by this Act to Section  
21 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session,  
22 1993, applies only to a transfer effective on or after the effective  
23 date of this Act. The change in law made by this Act to Section  
24 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session,  
25 1993, does not affect the validity of a transfer effective before  
26 the effective date of this Act. A transfer effective before the  
27 effective date of this Act is governed by the provisions of Chapter

1 626, Acts of the 73rd Legislature, Regular Session, 1993, and the  
2 rules of the Edwards Aquifer Authority in effect at the time the  
3 transfer became effective.

4 SECTION 25. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2003.