

1-1 By: Wentworth S.B. No. 1914  
1-2 (In the Senate - Filed April 23, 2003; April 24, 2003, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 May 22, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 1; May 22, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1914 By: Armbrister

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to powers and duties of the Edwards Aquifer Authority to  
1-11 manage and protect the Edwards Aquifer, the board of directors of  
1-12 the Edwards Aquifer Authority, and revenue bonding authority.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 1.03, Chapter 626, Acts of the 73rd  
1-15 Legislature, Regular Session, 1993, is amended by adding  
1-16 Subdivision (28) to read as follows:

1-17 (28) "Recharge facility" means a dam, reservoir, or  
1-18 other recharge project, and associated facilities, structures, or  
1-19 works.

1-20 SECTION 2. Section 1.07, Chapter 626, Acts of the 73rd  
1-21 Legislature, Regular Session, 1993, is amended to read as follows:

1-22 Sec. 1.07. OWNERSHIP OF UNDERGROUND WATER. The ownership  
1-23 and rights of the owner of the land and the owner's lessees and  
1-24 assigns, including holders of recorded liens or other security  
1-25 interests in the land, in underground water and the contract rights  
1-26 of any person who purchases water for the provision of potable water  
1-27 to the public or for the resale of potable water to the public for  
1-28 any use are recognized. However, action taken pursuant to this Act  
1-29 may not be construed as depriving or divesting the owner or the  
1-30 owner's lessees and assigns, including holders of recorded liens or  
1-31 other security interests in the land, of these ownership rights or  
1-32 as impairing the contract rights of any person who purchases water  
1-33 for the provision of potable water to the public or for the resale  
1-34 of potable water to the public for any use, subject to the rules  
1-35 adopted by the authority or a district exercising the powers  
1-36 provided by Chapter 36 [~~52~~], Water Code. The legislature intends  
1-37 that just compensation be paid if implementation of this article  
1-38 causes a taking of private property or the impairment of a contract  
1-39 in contravention of the Texas or federal constitution.

1-40 SECTION 3. Subsection (a), Section 1.08, Chapter 626, Acts  
1-41 of the 73rd Legislature, Regular Session, 1993, is amended to read  
1-42 as follows:

1-43 (a) The authority has all of the powers, rights, and  
1-44 privileges necessary to manage, conserve, preserve, and protect the  
1-45 aquifer and to increase the recharge of, and prevent the waste or  
1-46 pollution of water in, the aquifer. The authority has all of the  
1-47 rights, powers, privileges, authority, functions, and duties  
1-48 provided by the general law of this state, including Chapters 36,  
1-49 49, and [~~50, 51,~~ 51, [~~and 52,~~ Water Code, applicable to an authority  
1-50 created under Article XVI, Section 59, of the Texas Constitution.  
1-51 This article prevails over any provision of general law that is in  
1-52 conflict or inconsistent with this article regarding the area of  
1-53 the authority's jurisdiction.

1-54 SECTION 4. Section 1.09, Chapter 626, Acts of the 73rd  
1-55 Legislature, Regular Session, 1993, is amended by adding Subsection  
1-56 (i) to read as follows:

1-57 (i) To be eligible to be elected or appointed as a voting  
1-58 member of the board, a person must have resided continuously in the  
1-59 authority single-member election district from which the person  
1-60 seeks to be elected or appointed for six months immediately  
1-61 preceding the following date:

1-62 (1) for a candidate for election, the 60th day before  
1-63 the general election date; or

2-1 (2) for a candidate for appointment, the date the  
 2-2 appointment is made.

2-3 SECTION 5. Section 1.11, Chapter 626, Acts of the 73rd  
 2-4 Legislature, Regular Session, 1993, is amended by amending  
 2-5 Subsection (f) and adding Subsection (h) to read as follows:

2-6 (f) The authority may contract with a person who uses water  
 2-7 from the aquifer for the authority or that person to own, finance,  
 2-8 design, construct, operate, or [own, finance, and] maintain  
 2-9 recharge [water supply] facilities. [Management fees or special  
 2-10 fees may not be used for purchasing or operating these facilities.  
 2-11 For the purpose of this subsection, "water supply facility"  
 2-12 includes a dam, reservoir, treatment facility, transmission  
 2-13 facility, or recharge project.]

2-14 (h) Notwithstanding any other provision of law, the  
 2-15 authority has no duty, responsibility, or authority relating to the  
 2-16 protection of water quality. The commission is the agency of the  
 2-17 state with responsibility and authority relating to the protection  
 2-18 of water quality within the boundaries of the authority.

2-19 SECTION 6. Subsections (b) and (c), Section 1.14, Chapter  
 2-20 626, Acts of the 73rd Legislature, Regular Session, 1993, are  
 2-21 amended to read as follows:

2-22 (b) Except as provided by Subsections (d), (f), and (h) of  
 2-23 this section and Section 1.26 of this article, beginning January 1,  
 2-24 2008 [for the period ending December 31, 2007], the amount of  
 2-25 permitted withdrawals from the aquifer under regular permits may  
 2-26 not exceed 450,000 acre-feet of water for each calendar year.

2-27 (c) Except as provided by Subsections (d), (f), and (h) of  
 2-28 this section and Section 1.26 of this article, beginning January 1,  
 2-29 2010 [for the period beginning January 1, 2008], the amount of  
 2-30 permitted withdrawals from the aquifer under regular permits may  
 2-31 not exceed 400,000 acre-feet of water for each calendar year.

2-32 SECTION 7. Section 1.16, Chapter 626, Acts of the 73rd  
 2-33 Legislature, Regular Session, 1993, is amended by adding Subsection  
 2-34 (i) to read as follows:

2-35 (i) The authority shall process as administratively  
 2-36 complete all declarations of historical use received by the  
 2-37 authority on or before February 16, 1997, and shall consider any  
 2-38 such declaration as timely filed.

2-39 SECTION 8. Section 1.21, Chapter 626, Acts of the 73rd  
 2-40 Legislature, Regular Session, 1993, is amended by amending  
 2-41 Subsection (c) and adding Subsections (d) and (e) to read as  
 2-42 follows:

2-43 (c) If, before [on or after] January 1, 2008, the aggregate  
 2-44 [overall] volume of water authorized to be withdrawn from the  
 2-45 aquifer under regular permits is greater than 450,000 [400,000]  
 2-46 acre-feet a year or greater than the adjusted amount determined  
 2-47 under Subsection (d) of Section 1.14 of this article, not later than  
 2-48 October 1, 2007, the board shall issue an order to be effective on  
 2-49 January 1, 2008, proportionately adjusting the [maximum]  
 2-50 authorized withdrawal amount of each regular permit [shall be  
 2-51 immediately reduced by an equal percentage] as is necessary to  
 2-52 reduce aggregate authorized withdrawals under regular permits  
 2-53 [overall maximum demand] to 450,000 [400,000] acre-feet a year or  
 2-54 the adjusted amount, as appropriate. [The amount reduced may be  
 2-55 restored, in whole or in part, as other appropriate measures are  
 2-56 implemented that maintain overall demand at or below the  
 2-57 appropriate amount.]

2-58 (d) If, before January 1, 2010, the aggregate volume of  
 2-59 water authorized to be withdrawn from the aquifer under regular  
 2-60 permits is greater than 400,000 acre-feet a year or greater than the  
 2-61 adjusted amount determined under Subsection (d) of Section 1.14 of  
 2-62 this article, the board, not later than October 1, 2009, shall  
 2-63 issue an order to be effective January 1, 2010, proportionally  
 2-64 adjusting the authorized withdrawal amount of each regular permit  
 2-65 as is necessary to reduce aggregate authorized withdrawals under  
 2-66 regular permits to 400,000 acre-feet a year or the adjusted amount,  
 2-67 as appropriate.

2-68 (e) Proportional adjustments under this section and for  
 2-69 purposes of satisfying the requirements of Section 1.14 of this

3-1 article and this section shall be applied on the same terms and  
3-2 conditions to all permits issued under Section 1.16 of this  
3-3 article.

3-4 SECTION 9. Subsection (b), Section 1.28, Chapter 626, Acts  
3-5 of the 73rd Legislature, Regular Session, 1993, is amended to read  
3-6 as follows:

- 3-7 (b) The authority may issue revenue bonds to finance:
- 3-8 (1) the purchase of land;
- 3-9 (2) ~~or~~ the purchase, construction, or installation
- 3-10 of facilities or equipment, including recharge dams and associated
- 3-11 facilities, structures, or works; or
- 3-12 (3) the retirement of permits under Sections 1.21 and
- 3-13 1.22 of this article. ~~[The authority may not allow for any person~~
- 3-14 ~~to construct, acquire, or own facilities for transporting~~
- 3-15 ~~groundwater out of Uvalde County or Medina County.]~~

3-16 SECTION 10. Article 1, Chapter 626, Acts of the 73rd  
3-17 Legislature, Regular Session, 1993, is amended by adding Section  
3-18 1.331 to read as follows:

3-19 Sec. 1.331. EXEMPTION FOR FEDERAL FACILITIES; TRANSFER OF  
3-20 OWNERSHIP OF APPLICATION. (a) Federal facilities, which are  
3-21 immune from regulation under the doctrine of sovereign immunity,  
3-22 are exempt from the requirements of this article and any rules  
3-23 adopted under this article.

3-24 (b) A person may obtain an initial regular permit based on  
3-25 an application voluntarily filed by a federal facility if, before  
3-26 September 1, 2003, the authority approves the transfer of ownership  
3-27 of the application for an initial regular permit from the federal  
3-28 facility to the person seeking the permit. If, after the date a  
3-29 transfer is approved by the authority, groundwater subject to the  
3-30 transfer continues to be withdrawn by the federal facility making  
3-31 the transfer, the authority shall condition the authorized  
3-32 withdrawal amount of the transferee's interim authorization or  
3-33 initial regular permit on the reduction in the amount equal to the  
3-34 federal facility withdrawals.

3-35 SECTION 11. Subsection (c), Section 1.34, Chapter 626, Acts  
3-36 of the 73rd Legislature, Regular Session, 1993, is amended to read  
3-37 as follows:

3-38 (c) Subject to the rules of the authority, a [A] permit  
3-39 holder may transfer a regular permit or interim authorization  
3-40 [lease permitted water rights, but a holder of a permit for  
3-41 irrigation use may not lease more than 50 percent of the irrigation  
3-42 rights initially permitted. The user's remaining irrigation water  
3-43 rights must be used in accordance with the original permit and must  
3-44 pass with transfer of the irrigated land]. Fifty percent of the  
3-45 groundwater withdrawal amount initially permitted for irrigation  
3-46 may be used only for irrigation.

3-47 SECTION 12. Section 1.35, Chapter 626, Acts of the 73rd  
3-48 Legislature, Regular Session, 1993, is amended by adding Subsection  
3-49 (f) to read as follows:

3-50 (f) A person who transfers a permit or interim authorization  
3-51 to withdraw groundwater from the San Antonio pool to a well that  
3-52 draws from the Uvalde pool may not transport groundwater withdrawn  
3-53 under the transferred permit or interim authorization out of the  
3-54 county in which the well that draws from the Uvalde pool is located.

3-55 SECTION 13. This Act takes effect September 1, 2003.

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