

1-1 By: Armbrister S.B. No. 24  
1-2 (In the Senate - Filed June 22, 2005; June 23, 2005, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 June 29, 2005, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; June 29, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the maximum permitted withdrawals and critical period  
1-9 management of groundwater in the area regulated by the Edwards  
1-10 Aquifer Authority and to the operations and oversight of the  
1-11 Edwards Aquifer Authority.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts  
1-14 of the 73rd Legislature, Regular Session, 1993, is amended to read  
1-15 as follows:

1-16 (f) The authority may own, finance, design, [contract with a  
1-17 person who uses water from the aquifer for the authority or that  
1-18 person to] construct, operate, or [own, finance, and] maintain  
1-19 recharge [water supply] facilities or contract with a person who  
1-20 uses water from the aquifer for the authority or that person to own,  
1-21 finance, design, construct, operate, or maintain recharge  
1-22 facilities. [Management fees or special fees may not be used for  
1-23 purchasing or operating these facilities.] For the purpose of this  
1-24 subsection, "recharge [water supply] facility" means [includes] a  
1-25 dam, reservoir, [treatment facility, transmission facility,] or  
1-26 other method of recharge project and associated facilities,  
1-27 structures, or works.

1-28 SECTION 2. Subsections (a), (c), (f), and (h), Section  
1-29 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,  
1-30 1993, are amended to read as follows:

1-31 (a) Authorizations to withdraw water from the aquifer and  
1-32 all authorizations and rights to make a withdrawal under this Act  
1-33 shall be limited in accordance with this section to:

- 1-34 (1) protect the water quality of the aquifer;  
1-35 (2) protect the water quality of the surface streams  
1-36 to which the aquifer provides springflow;  
1-37 (3) achieve water conservation;  
1-38 (4) maximize the beneficial use of water available for  
1-39 withdrawal from the aquifer;  
1-40 (5) recognize the hydro-geologic connection and  
1-41 interaction between surface and groundwater;  
1-42 (6) protect aquatic and wildlife habitat;  
1-43 (7) ~~(6)~~ protect species that are designated as  
1-44 threatened or endangered under applicable federal or state law; and  
1-45 (8) ~~(7)~~ provide for instream uses, bays, and  
1-46 estuaries.

1-47 (c) Except as provided by Subsections ~~(d)~~ (f) ~~(g)~~ and (h)  
1-48 of this section ~~[and Section 1.26 of this article]~~, for the period  
1-49 beginning January 1, 2005 ~~[2008]~~, the amount of permitted  
1-50 withdrawals from the aquifer may not exceed the sum of all regular  
1-51 permits issued or for which an application has been filed and  
1-52 issuance is pending action by the authority as of January 1, 2005  
1-53 [400,000 acre-feet of water for each calendar year].

1-54 (f) If the level of the aquifer is equal to or greater than  
1-55 665 ~~[650]~~ feet above mean sea level as measured at Well J-17, the  
1-56 authority may authorize withdrawal from the San Antonio pool, on an  
1-57 uninterrupted basis, of permitted amounts. If the level of the  
1-58 aquifer is equal to or greater than 845 feet at Well J-27, the  
1-59 authority may authorize withdrawal from the Uvalde pool, on an  
1-60 uninterrupted basis, of permitted amounts. In accordance with  
1-61 Section 1.26 of this article, the [The] authority shall limit the  
1-62 additional withdrawals to ensure that springflows are not affected  
1-63 during critical drought conditions.

1-64 (h) To accomplish the purposes of this article, ~~[by June 1,~~

2-1 ~~1994,~~] the authority, through a program, shall implement and  
 2-2 enforce water management practices, procedures, and methods to  
 2-3 ensure that, not later than December 31, 2012, the continuous  
 2-4 minimum springflows of the Comal Springs and the San Marcos Springs  
 2-5 are maintained to protect endangered and threatened species to the  
 2-6 extent required by federal law and to achieve other purposes  
 2-7 provided by Subsection (a) of this section and Section 1.26 of this  
 2-8 article. The authority from time to time as appropriate may revise  
 2-9 the practices, procedures, and methods. To meet this requirement,  
 2-10 the authority shall require:

2-11 (1) phased reductions in the amount of water that may  
 2-12 be used or withdrawn by existing users or categories of other users,  
 2-13 including the authority's critical period management plan  
 2-14 established under Section 1.26 of this article; or

2-15 (2) implementation of alternative management  
 2-16 practices, procedures, and methods.

2-17 SECTION 3. Subsection (c), Section 1.15, Chapter 626, Acts  
 2-18 of the 73rd Legislature, Regular Session, 1993, is amended to read  
 2-19 as follows:

2-20 (c) The authority may issue regular permits, term permits,  
 2-21 and emergency permits. Except as provided in Section 1.14(f) and  
 2-22 Section 1.26 of this article, regular permits may not be issued on  
 2-23 an interruptible basis, and the total withdrawals authorized by all  
 2-24 regular permits issued by the authority may not exceed the  
 2-25 limitations provided by Section 1.14 of this article.

2-26 SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts  
 2-27 of the 73rd Legislature, Regular Session, 1993, is amended to read  
 2-28 as follows:

2-29 (b) Withdrawal of water under a term permit must be  
 2-30 consistent with the authority's critical period management plan  
 2-31 established under Section 1.26 of this article. A holder of a term  
 2-32 permit may not withdraw water from the San Antonio pool of the  
 2-33 aquifer unless the level of the aquifer is higher than 675 [665]  
 2-34 feet above sea level, as measured at Well J-17, and the flow at  
 2-35 Comal Springs as determined by Section 1.26(c) of this article is  
 2-36 greater than 350 cfs.

2-37 SECTION 5. Article 1, Chapter 626, Acts of the 73rd  
 2-38 Legislature, Regular Session, 1993, is amended by amending Section  
 2-39 1.26 and adding Section 1.26A to read as follows:

2-40 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After  
 2-41 review of the recommendations received, as prescribed in Section  
 2-42 1.26A of this article, the [The] authority shall prepare and  
 2-43 coordinate implementation of a [plan for] critical period  
 2-44 management plan in a manner consistent with Section 1.14(a) of this  
 2-45 article [on or before September 1, 1995]. The mechanisms must:

2-46 (1) distinguish between discretionary use and  
 2-47 nondiscretionary use;

2-48 (2) require reductions of all discretionary use to the  
 2-49 maximum extent feasible;

2-50 (3) require utility pricing, to the maximum extent  
 2-51 feasible, to limit discretionary use by the customers of water  
 2-52 utilities; and

2-53 (4) require reduction of nondiscretionary use by  
 2-54 permitted or contractual users, to the extent further reductions  
 2-55 are necessary, in the reverse order of the following water use  
 2-56 preferences:

2-57 (A) municipal, domestic, and livestock;

2-58 (B) industrial and crop irrigation;

2-59 (C) residential landscape irrigation;

2-60 (D) recreational and pleasure; and

2-61 (E) other uses that are authorized by law.

2-62 (b) In this section, "MSL" means the elevation, measured in  
 2-63 feet, of the surface of the water in a well above mean sea level, and  
 2-64 "CFS" means cubic feet per second. Not later than January 1, 2006,  
 2-65 the authority shall, by rule, adopt and enforce a critical period  
 2-66 management plan with withdrawal reduction percentages in the  
 2-67 amounts indicated in Tables 1 and 2 whether according to the index  
 2-68 well levels or Comal Springs flow as may be applicable, for a total  
 2-69 in critical period Stage IV of 40 percent of the permitted

withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL

<u>INDEX WELL</u> <u>J-17 LEVEL MSL</u>	<u>COMAL SPRINGS</u> <u>FLOW CFS</u>	<u>CRITICAL</u> <u>PERIOD STAGE</u>	<u>WITHDRAWAL</u> <u>REDUCTION</u> <u>PERCENTAGE</u>
<665	N/A	I	10%
<650	N/A	II	10%
<640	<150	III	10%
<630	<100	IV	10%

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL</u> <u>FOR UVALDE POOL</u>	<u>CRITICAL PERIOD</u> <u>STAGE</u>	<u>WITHDRAWAL</u> <u>REDUCTION</u> <u>PERCENTAGE</u>
N/A	N/A	N/A
N/A	II	N/A
<845	III	15%
<842	IV	15%

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning November 1, 2005, the authority shall reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. After January 1, 2012, the authority shall reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2020, the authority, after review and consideration of recommendations received by the authority under Section 1.26A of this article, shall adjust the volume of permitted withdrawals to an appropriate annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a) of this article.

(f) From time to time, the authority by rule may amend the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsections (b), (c), and (e) of this section, after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. The amended plan must be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental Flows Commission, as established under Section 11.0236, Water Code, or the Texas Water Development Board if the Environmental Flows Commission is not established, shall appoint a 15-member Edwards Aquifer Area Stakeholders Committee not later than January 1, 2006. The composition of the committee will be as follows:

- (1) five holders of municipal permits issued by the authority;
- (2) two holders of irrigation permits issued by the authority;
- (3) three holders of industrial permits issued by the authority;
- (4) four downstream water rights holders in the Guadalupe River basin; and
- (5) one representative of a public interest group related to instream flows in the Guadalupe River basin and bay and estuary inflows from the Guadalupe River.

(b) The Edwards Aquifer Area Stakeholders Committee shall appoint a seven-member Edwards Aquifer area expert science team not later than April 30, 2006. The expert science team must be composed

4-1 of technical experts with special expertise regarding the Edwards  
4-2 Aquifer system, spring flows, or the development of withdrawal  
4-3 limitations. Chapter 2110, Government Code, does not apply to the  
4-4 size, composition, or duration of the expert science team. A member  
4-5 of the Texas Environmental Flows Science Advisory Committee, or a  
4-6 designee of the Texas Water Development Board if the Texas  
4-7 Environmental Flows Science Advisory Committee is not established  
4-8 in Section 11.02361, Water Code, shall serve as liaison to the  
4-9 Edwards Aquifer area expert science team.

4-10 (c) The expert science team shall develop an analysis of  
4-11 spring discharge rates and aquifer levels as a function of  
4-12 withdrawal levels. Based upon this analysis and the required  
4-13 elements to be considered by the authority in Section 1.14 of this  
4-14 article, the Edwards Aquifer area expert science team shall,  
4-15 through a collaborative process designed to achieve consensus,  
4-16 create recommendations for withdrawal reduction levels and stages  
4-17 for critical period management including, if appropriate,  
4-18 establishing separate and different withdrawal reduction levels  
4-19 and stages for critical period management rules for different pools  
4-20 of the aquifer and submit them to the Edwards Aquifer Area  
4-21 Stakeholders Committee, the Environmental Flows Commission or the  
4-22 Texas Water Development Board if the Environmental Flows Commission  
4-23 is not established, and the authority. The initial recommendations  
4-24 must be completed and submitted no later than September 30, 2006.

4-25 (d) In developing its recommendations, the Edwards Aquifer  
4-26 area expert science team must consider all reasonably available  
4-27 science, including any Edwards Aquifer specific studies, and the  
4-28 recommendations must be based solely on the best science available.  
4-29 The Edwards Aquifer Area Stakeholders Committee may not change the  
4-30 recommendations of the Edwards Aquifer area expert science team  
4-31 regarding the withdrawal limitations appropriate to achieve the  
4-32 purposes of Section 1.14 of this article.

4-33 (e) The Edwards Aquifer Area Stakeholders Committee shall  
4-34 review the withdrawal limitation and critical period management  
4-35 recommendations submitted by the expert science team and shall  
4-36 consider them in conjunction with other factors, including the  
4-37 present and future needs for water for other uses related to water  
4-38 supply planning in the Edwards Aquifer area and the required  
4-39 elements to be considered by the authority in Section 1.14 of this  
4-40 article. The stakeholders committee shall develop recommendations  
4-41 regarding a critical period management plan and submit its  
4-42 recommendations to the authority and to the Environmental Flows  
4-43 Commission or the Texas Water Development Board if the  
4-44 Environmental Flows Commission is not established. In developing  
4-45 its recommendations, the stakeholders committee shall operate on a  
4-46 consensus basis to the maximum extent possible. The initial  
4-47 recommendations must be completed and submitted no later than  
4-48 October 31, 2006.

4-49 (f) The Environmental Flows Commission or the Texas Water  
4-50 Development Board if the Environmental Flows Commission is not  
4-51 established shall submit to the authority its comments on and  
4-52 recommendations regarding the Edwards Aquifer area expert science  
4-53 team's recommended withdrawal reduction levels and stages for  
4-54 critical period management needed to maintain target spring  
4-55 discharge and aquifer levels. The withdrawal reduction  
4-56 recommendations shall be based upon a combination of spring  
4-57 discharge rates of the San Marcos and Comal Springs and levels at  
4-58 the J-17 and J-27 wells.

4-59 (g) The Edwards Aquifer area expert science team, Edwards  
4-60 Aquifer Area Stakeholders Committee, and the Environmental Flows  
4-61 Commission or the Texas Water Development Board if the  
4-62 Environmental Flows Commission is not established shall submit  
4-63 recommendations to the authority for use in developing its rules  
4-64 relative to establishing the critical period management plan.

4-65 (h) Where reasonably practicable, meetings of the Edwards  
4-66 Aquifer area expert science team and Edwards Aquifer Area  
4-67 Stakeholders Committee must be open to the public.

4-68 (i) In recognition of the importance of critical period  
4-69 management to adapt to changed conditions or information, after

5-1 submitting its recommendations regarding withdrawal limitations  
 5-2 and strategies to meet the spring flow needs to the authority, the  
 5-3 stakeholders committee, with the assistance of the expert science  
 5-4 team, shall prepare and submit to the Environmental Flows  
 5-5 Commission or the Texas Water Development Board if the  
 5-6 Environmental Flows Commission is not established a work plan. The  
 5-7 work plan must:

5-8 (1) establish a periodic review of the critical period  
 5-9 management plan, to occur at least once every five years;

5-10 (2) prescribe specific monitoring, studies, and  
 5-11 activities; and

5-12 (3) establish a schedule for continuing the validation  
 5-13 or refinement of the critical period management plan adopted by the  
 5-14 authority, and the strategies to achieve the plan.

5-15 (j) To assist the Environmental Flows Commission or the  
 5-16 Texas Water Development Board if the Environmental Flows Commission  
 5-17 is not established to assess the extent to which the  
 5-18 recommendations of the Edwards Aquifer area expert science team are  
 5-19 considered and implemented, the authority shall provide written  
 5-20 reports to the Environmental Flows Commission or the Texas Water  
 5-21 Development Board if the Environmental Flows Commission is not  
 5-22 established, at intervals determined by the Environmental Flows  
 5-23 Commission or the Texas Water Development Board if the  
 5-24 Environmental Flows Commission is not established, that describe:

5-25 (1) the actions taken in response to each  
 5-26 recommendation; and

5-27 (2) for each recommendation not implemented, the  
 5-28 reason it was not implemented.

5-29 SECTION 6. Subsections (b) and (i), Section 1.29, Section  
 5-30 626, Acts of the 73rd Legislature, Regular Session, 1993, are  
 5-31 amended to read as follows:

5-32 (b) The authority shall assess equitable aquifer management  
 5-33 fees based on aquifer use under the water management plan to finance  
 5-34 its administrative expenses and programs authorized under this  
 5-35 article. Each water district governed by Chapter 36 [~~52~~], Water  
 5-36 Code, that is within the authority's boundaries may contract with  
 5-37 the authority to pay expenses of the authority through taxes in lieu  
 5-38 of user fees to be paid by water users in the district. The contract  
 5-39 must provide that the district will pay an amount equal to the  
 5-40 amount that the water users in the district would have paid through  
 5-41 user fees. The authority may not collect a total amount of fees and  
 5-42 taxes that is more than is reasonably necessary for the  
 5-43 administration of the authority.

5-44 (i) The authority shall provide money as necessary, but not  
 5-45 to exceed \$75,000, annually adjusted for changes in the consumer  
 5-46 price index [~~five percent of the money collected under Subsection~~  
 5-47 ~~(d) of this section~~], to finance the South Central Texas Water  
 5-48 Advisory Committee's administrative expenses and programs  
 5-49 authorized under this article.

5-50 SECTION 7. Chapter 626, Acts of the 73rd Legislature,  
 5-51 Regular Session, 1993, is amended by adding Section 1.29A to read as  
 5-52 follows:

5-53 Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) The  
 5-54 authority shall appoint a budgetary advisory committee no later  
 5-55 than November 30, 2005, to consult and advise the authority on the  
 5-56 following prior to its submission to the board:

5-57 (1) the issuance of bonds;

5-58 (2) the authority's annual budget; and

5-59 (3) the authority's annual audit.

5-60 (b) Each voting member of the board shall appoint one member  
 5-61 of the budgetary advisory committee.

5-62 SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts  
 5-63 of the 73rd Legislature, Regular Session, 1993, is amended to read  
 5-64 as follows:

5-65 (a) The authority may own, finance, design, construct,  
 5-66 [build or] operate, and maintain recharge dams and associated  
 5-67 facilities, structures, or works in the contributing or recharge  
 5-68 area of the aquifer if the recharge is made to increase the yield of  
 5-69 the aquifer and the recharge project does not impair senior water

6-1 rights or vested riparian rights.

6-2 SECTION 9. The following sections of Chapter 626, Acts of  
6-3 the 73rd Legislature, Regular Session, 1993, are repealed:

6-4 (1) Subsections (b) and (d), Section 1.14;

6-5 (2) Section 1.18;

6-6 (3) Section 1.21; and

6-7 (4) Subsections (a), (c), (d), and (h), Section 1.29.

6-8 SECTION 10. This Act takes effect November 1, 2005.

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