

By: Madla

S.B. No. 1857

A BILL TO BE ENTITLED

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AN ACT

relating to the consolidation of the Kinney County Groundwater Conservation District into the Edwards Aquifer Authority.

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

SECTION 1. DISSOLUTION. The Kinney County Groundwater Conservation District is dissolved, and the aquifer and other underground water in Kinney County is made subject to the jurisdiction of the Edwards Aquifer Authority.

SECTION 2. AMENDMENT. Subsection (a), Section 1.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) A conservation and reclamation district, to be known as the Edwards Aquifer Authority, is created in all or part of Atascosa, Bexar, Caldwell, Comal, Guadalupe, Hays, Kinney, Medina, and Uvalde counties. A confirmation election is not necessary. The authority is a governmental agency and a body politic and corporate.

SECTION 3. AMENDMENT. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subdivision (1) and adding Subdivision (28) to read as follows:

(1) "Aquifer" means the Edwards Aquifer, which is that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast

1 from the western hydrologic division near Brackettville in Kinney
2 County that separates underground flow toward the Comal Springs and
3 San Marcos Springs from underground flow to the Rio Grande Basin,
4 through Uvalde, Medina, Atascosa, Bexar, Guadalupe, and Comal
5 counties, and in Hays County south of the hydrologic division near
6 Kyle that separates flow toward the San Marcos River from flow to
7 the Colorado River Basin.

8 (28) "Western hydrologic division" means the aquifer
9 boundary or groundwater divide, delineated in the Edwards
10 Underground Water District Report 95-01, between the Edwards
11 Aquifer to the east and the Edwards-Trinity (Plateau) Aquifer to
12 the west, which extends along a line, sometimes referred to as the
13 Spofford Fault, that runs from the intersection of the Kinney
14 County/Maverick County line and Stricklin Creek, northwesterly
15 along a lineament oriented approximately North 14° West along the
16 western side of the Anacacho Mountains, to the unnamed igneous
17 intrusion south of Highway 90 referenced in Report 95-01, then
18 westerly through Las Moras Springs to Pinto Springs, and then
19 northwesterly along the Spofford Fault system, along the western
20 side of Pinto Mountain and the topographic high in the unnamed
21 escarpment referenced in Report 95-01, to the intersection of Flat
22 Rock Creek and the Kinney County/Edwards County line. This
23 boundary may be described more precisely as a line connecting the
24 following latitude/longitude coordinate points geospatially
25 referenced to the North American Datum of 1927:

26 Beginning at Point 1: North 29° 5.09'/West 100° 16.04';

27 Thence through Point 2: North 29° 16.57'/

1 West 100°/20.37';
2 Thence continuing to Point 3: North 29° 18.52'/
3 West 100° 25.20';
4 Thence continuing to Point 4: North 29° 24.45'/
5 West 100° 27.12'; and
6 Ending at Point 5: North 29° 37.40'/West 100° 33.43'. The
7 source of water discharged from both Las Moras Springs and Pinto
8 Springs is the Edwards Aquifer.

9 SECTION 4. AMENDMENT. Section 1.04, Chapter 626, Acts of
10 the 73rd Legislature, Regular Session, 1993, is amended to read as
11 follows:

12 Sec. 1.04. BOUNDARIES. The authority includes the
13 territory contained within the following area:

14 (1) all of the areas of Bexar, Kinney, Medina, and
15 Uvalde counties;

16 (2) all of the area of Comal County, except that
17 portion of the county that lies North of the North line through the
18 county of Subdivision No. 1 of the Underground Water Reservoir in
19 the Edwards Limestone, Balcones escarpment area, as defined by the
20 order of the Board of Water Engineers dated January 10, 1957;

21 (3) the part of Caldwell County beginning with the
22 intersection of Hays County Road 266 and the San Marcos River;

23 THENCE southeast along the San Marcos River to the point of
24 intersection of Caldwell, Guadalupe, and Gonzales counties;

25 THENCE southeast along the Caldwell-Gonzales County line to
26 its intersection with U.S. Highway 183;

27 THENCE north along U.S. Highway 183 to its intersection with

1 State Highway 21;

2 THENCE southwest along State Highway 21 to its intersection
3 with Hays County Road 266;

4 THENCE southwest along Hays County Road 266 to the place of
5 beginning;

6 (4) the part of Hays County beginning on the northwest
7 line of the R. B. Moore Survey, Abstract 412, in Comal County where
8 it crosses the Comal County-Hays County line northeast along the
9 northwest line of said Survey to the northeast corner of said Survey
10 in Hays County, Texas;

11 THENCE southeast in Hays County, Texas across the Jas.
12 Deloach Survey, Abstract 878, to the most westerly northwest corner
13 of the Presidio Irrigation Co. Survey, Abstract 583;

14 THENCE northeast along the northwest line of said Survey to
15 its most northerly northwest corner;

16 THENCE continuing in the same line across the R.S. Clayton
17 Survey 2, Block 742, to the west line of the H. & G. N. RR. Co.
18 Survey 1, Abstract 668;

19 THENCE north along the west line of said Survey to its
20 northwest corner;

21 THENCE east along the north line of said Survey to its
22 northeast corner;

23 THENCE northeast across the David Wilson Survey 83, Abstract
24 476, to the southeast corner of the F. W. Robertson Survey 71,
25 Abstract 385;

26 THENCE north along the east line of said Survey to the
27 southwest corner of the Benjamin Weed Survey 72, Abstract 483;

1 THENCE east along the south line of said Survey to its
2 southeast corner;

3 THENCE northeast across the William Gray Survey 73, Abstract
4 92, and the Murray Bailey Survey 75, Abstract 42, to the southwest
5 corner of the D.Holderman Survey 33, Abstract 225;

6 THENCE north along the west line of said Survey to its
7 northwest corner;

8 THENCE continuing in the same line to the north line of the
9 Day Land & Cattle Co. Survey 672;

10 THENCE west along said north line of said Survey to its
11 northwest corner, which is in the east line of the Jesse Williams
12 Survey 4 to the northeast corner of said Survey;

13 THENCE west along the north line of said Survey to the
14 Southwest corner of the Amos Singleton Survey 106, Abstract 410;

15 THENCE north along the west lines of said Amos Singleton
16 Survey 106 and the Watkins Nobles Survey 107, Abstract 346, to the
17 northwest corner of said Watkins Nobles Survey 107;

18 THENCE east along the north line of said Survey to the
19 southwest corner of the Jesusa Perez Survey 14, Abstract 363;

20 THENCE north along the west line of said Jesusa Perez Survey
21 14 to its northwest corner;

22 THENCE east along the north line of said Survey to its
23 northeast corner;

24 THENCE, south along the east line of said Survey for a
25 distance of approximately 10,000 feet to its intersection with
26 Ranch Road 150;

27 THENCE, east by southeast along Ranch Road 150 approximately

1 24,500 feet to its intersection with the southern boundary line of
2 the Andrew Dunn Survey 9, Abstract 4;

3 THENCE, east along the south line of said survey as it extends
4 and becomes the southern boundary line of the Morton M. McCarver
5 Survey 4, Abstract 10, for a distance of approximately 7,000 feet to
6 its intersection with Ranch Road 2770;

7 THENCE, south on Ranch Road 2770 for a distance of
8 approximately 400 feet to its intersection with Farm-to-Market Road
9 171;

10 THENCE, east along Farm-to-Market Road 171 for a distance of
11 approximately 10,500 feet to its intersection with Farm-to-Market
12 Road 25;

13 THENCE, north by northeast along Farm-to-Market Road 25 for a
14 distance of approximately 3,100 feet to its intersection with
15 Farm-to-Market Road 131;

16 THENCE, east by southeast along Farm-to-Market Road 131 for a
17 distance of approximately 3,000 feet to its intersection with the
18 east line of the Thomas G. Allen Survey, Abstract 26;

19 THENCE south along the east line of said Thomas G. Allen
20 Survey to the most northerly northwest corner of the Elisha Pruett
21 Survey 23, Abstract 376;

22 THENCE southwest along a west line of said Elisha Pruett
23 Survey 23 to the west corner of said Survey;

24 THENCE southeast along the southwest line of said Survey to
25 the north corner of the John Stewart Survey, Abstract 14;

26 THENCE southwest along the northwest line of said John
27 Stewart Survey to its west corner;

1 THENCE continuing in the same line to the most northerly
2 southwest line of the John Jones Survey, Abstract 263;

3 THENCE southeast along said southwest line to an interior
4 corner of said John Jones Survey;

5 THENCE southwest along the most southerly northwest line of
6 said Survey to the southwest corner of said Survey;

7 THENCE southeast along the south line of said Survey to the
8 north corner of the James W. Williams Survey 11, Abstract 473;

9 THENCE southwest along the northwest line of said James W.
10 Williams Survey 11 to its west corner;

11 THENCE southeast along the southwest line of said Survey to
12 the north right-of-way line of the I. & G. N. RR.;

13 THENCE southwest along said right-of-way of said I. & G. N.
14 RR. to the Hays County-Comal County line;

15 THENCE south along said county line to the northwest line of
16 the R. B. Moore Survey, Abstract 412, in Hays County where it
17 crosses the Hays County-Comal County line;

18 (5) all of the territory of Hays County contained
19 within the following described area:

20 Beginning on the most southern point of Hays County at the
21 intersection of Hays, Comal, and Guadalupe Counties; then
22 continuing in a northeasterly direction along the Hays-Guadalupe
23 county line to its intersection with the Hays-Caldwell county line;
24 then continuing along the Hays-Caldwell county line to an
25 intersection with Farm-to-Market Road 150; then continuing in a
26 northwesterly direction along Farm-to-Market Road 150 to the
27 intersection with the existing southern boundary of the part of

1 Hays County described in Subdivision (4) of this section; then
2 continuing in a southwesterly direction along the existing southern
3 boundary of the part of Hays County described in Subdivision (4) of
4 this section to the intersection with the Hays-Comal county line;
5 then continuing in a southerly direction along the Hays-Comal
6 county line to the point of beginning;

7 (6) the part of Guadalupe County beginning at the
8 Guadalupe County-Caldwell County-Hays County line at the San Marcos
9 River in the northeast corner of Guadalupe County, Texas.

10 THENCE southwest along the Guadalupe County-Hays County line
11 to the intersect of the Guadalupe County-Hays County-Comal County
12 line.

13 THENCE southwest along the Guadalupe County-Comal County
14 line to the intersect of the Guadalupe County-Comal County-Bexar
15 County intersect at the Cibolo creek.

16 THENCE south along the Guadalupe County-Bexar County line
17 along the Cibolo creek to the intersect of the Guadalupe
18 County-Bexar County-Wilson County line.

19 THENCE south along the Guadalupe County-Wilson County line
20 along the Cibolo creek to the intersect and crossing of Guadalupe
21 County Road 417.

22 THENCE east along Guadalupe County Road 417 to the intersect
23 of Guadalupe County Road 417 and Guadalupe County Road 412.

24 THENCE northeast along Guadalupe County Road 412 to the
25 intersect of Guadalupe County Road 412 and Guadalupe County Road
26 411 A.

27 THENCE east along Guadalupe County Road 411 A to the

1 intersect of Guadalupe County Road 411 A and Farm-to-Market road
2 number 725.

3 THENCE north along Farm-to-Market Road 725 to the intersect
4 of Farm-to-Market Road 725 and Interstate Highway 10.

5 THENCE east along Interstate Highway 10 to the intersect of
6 Interstate Highway 10 and State Highway 90.

7 THENCE east along State Highway 90 to the Guadalupe
8 County-Caldwell County line at the San Marcos river.

9 THENCE northwest along the Guadalupe County-Caldwell County
10 line along the San Marcos river to the place of beginning; and

11 (7) the part of Atascosa County beginning on the north
12 line of the Robt. C. Rogers Survey, at the Bexar County-Atascosa
13 County line, to its northwest corner, which is the northeast corner
14 of the F. Brockinzen Survey, Abstract 86;

15 THENCE south along the east line of said Survey passing
16 through its southeast corner and continuing south along the east
17 line of the F. Brockinzen Survey, Abstract 90, to its southeast
18 corner;

19 THENCE west along the south line of said survey to its
20 southwest corner;

21 THENCE north along the west line of said F. Brockinzen Survey
22 to the southeast corner of the B. Bonngartner Survey, Abstract 87;

23 THENCE west along the south line of said B. Bonngartner
24 Survey passing through its southwest corner and continuing along
25 the south line of the J. B. Goettlemann Survey, Abstract 309, to the
26 Atascosa County-Medina County line;

27 THENCE north along the Atascosa County-Medina County line to

1 the Bexar County line;

2 THENCE east along the Atascosa County-Bexar County Line to
3 the place of beginning.

4 SECTION 5. AMENDMENT. Section 1.08, Chapter 626, Acts of
5 the 73rd Legislature, Regular Session, 1993, is amended by amending
6 Subsection (b) and adding Subsections (b-1), (b-2), and (b-3) to
7 read as follows:

8 (b) The authority's powers regarding underground water
9 apply only to underground water within or withdrawn from:

- 10 (1) the aquifer; or
11 (2) any other underground water resource in Kinney
12 County.

13 (b-1) With respect to underground water in Kinney County
14 that is not water of the aquifer:

15 (1) Sections 1.01, 1.13 through 1.21, 1.23, 1.25,
16 1.26, 1.28(a) and (b), 1.29 through 1.34, and 1.41 through 1.45 of
17 this article do not apply;

18 (2) Section 36.205(e)(1), Water Code, does not apply;
19 and

20 (3) the authority has all the rights, powers,
21 privileges, authority, functions, and duties provided by:

22 (A) the applicable provisions of this article;

23 (B) the general law of this state applicable to a
24 groundwater conservation district created under Section 59,
25 Article XVI, Texas Constitution, including Chapter 36, Water Code;
26 and

27 (C) Chapter 49, Water Code, as that chapter

1 applies to an authority created under Section 59, Article XVI,
2 Texas Constitution.

3 (b-2) With respect to that part of Kinney County west of the
4 western hydrologic division, Section 36.201(c), Water Code, does
5 not apply to or restrict the authority's continuing imposition of
6 an ad valorem tax not to exceed 10 cents on each \$100 of assessed
7 valuation.

8 (b-3) This section [subsection] is not intended to allow the
9 authority to regulate surface water.

10 SECTION 6. AMENDMENT. Subsection (n), Section 1.093,
11 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
12 is amended to read as follows:

13 (n) District 14 is composed of Kinney County and that part
14 of Uvalde County BNA 9502 included in block groups 3 and 4 and
15 blocks 102, 103, 106, 117, 140, 142, 201, 202, 203, 204, 206, 207,
16 208, 209, 210, 211, 212, 213, 214, 215, 216A, 216B, 217, 218, 219,
17 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232,
18 233, 234, 235, 236, 237, 238, 239A, 239B, 240, 241, 242, 243, 244,
19 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257,
20 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270,
21 271, 272, 273, 274, 278, 279, 280, 281, 282, 283, 284, 285, 286,
22 288, 296, 297, 299, 299R, 521, 522, 523, 524, 525, 526, 527, 528,
23 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, and 541;
24 and that part of Uvalde County BNA 9503 included in block groups 2,
25 3, 4, 5, 6, and blocks 101B, 101C, 102, 103, 104, 105, 106, 107, 108,
26 109A, 109B, 110, 111, 112, 113, 114, 115, 116A, 116B, 116C, 117A,
27 117B, 118, 119, 120, 121, 122, 123, 124, 126, 133, 134, 135, 136,

1 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149,
2 150, 151, 152, 153, 154, 155, 156, 164A, 164B, 165, 166, 167, 168,
3 169, 170, 171, 172, 173, and 174; and that part of Uvalde County BNA
4 9504 included in block group 4 and blocks 314, 316, and 319; and
5 that part of Uvalde County BNA 9505 included in block groups 2 and 3
6 and blocks 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123,
7 124, 125, 126A, 126B, 126C, 127, 128, 129, 130, 131, 132, 133, 134,
8 135, 136, 137, 138, 139A, 139B, 140, 141, 142A, 142B, 143A, 143B,
9 144, 145, 146, 147, 148, 149A, 149B, 150, 151, and 152.

10 SECTION 7. AMENDMENT. Subsection (a), Section 1.10,
11 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
12 is amended to read as follows:

13 (a) The South Central Texas Water Advisory Committee shall
14 advise the board on downstream water rights and issues. The
15 advisory committee consists of one member appointed by the
16 governing body of each of the following counties and
17 municipalities, except that Atascosa County may not have a
18 representative on the advisory committee when the county has a
19 representative member on the board:

- 20 (1) Atascosa;
- 21 (2) Caldwell;
- 22 (3) Calhoun;
- 23 (4) Comal;
- 24 (5) DeWitt;
- 25 (6) Goliad;
- 26 (7) Gonzales;
- 27 (8) Guadalupe;

- 1 (9) Hays;
- 2 (10) Karnes;
- 3 (10-a) Kinney;
- 4 (11) Medina;
- 5 (12) Nueces;
- 6 (13) Refugio;
- 7 (14) San Patricio;
- 8 (15) Uvalde;
- 9 (16) Victoria;
- 10 (17) Wilson;
- 11 (18) the City of San Antonio;
- 12 (19) the City of Victoria; and
- 13 (20) the City of Corpus Christi.

14 SECTION 8. AMENDMENT. Subsection (g), Section 1.14,
15 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
16 is amended to read as follows:

17 (g) The authority by rule may, in accordance with
18 hydrogeologic research:

- 19 (1) define other pools within the aquifer;
- 20 (2) [~~, in accordance with hydrogeologic research, and~~
21 ~~may~~] establish index wells for any pool to monitor the level of the
22 aquifer to aid the regulation of withdrawals from the pools; or
- 23 (3) more accurately define and locate the western
24 hydrologic division in Kinney County.

25 SECTION 9. AMENDMENT. Section 1.16, Chapter 626, Acts of
26 the 73rd Legislature, Regular Session, 1993, is amended by adding
27 Subsection (b-1) to read as follows:

1 (b-1) An existing user withdrawing underground water from
2 the portion of the aquifer in Kinney County must file a declaration
3 of historical use on or before March 1, 2006, on a form prescribed
4 by the board. An applicant for a permit must timely pay all
5 application fees required by the board.

6 SECTION 10. AMENDMENT. Section 1.17, Chapter 626, Acts of
7 the 73rd Legislature, Regular Session, 1993, is amended by adding
8 Subsections (a-1) and (e) to read as follows:

9 (a-1) Subsection (a) of this section does not apply to a
10 person who, on September 1, 2005, owns a producing well located in
11 Kinney County and uses the well to withdraw water from the aquifer.
12 A person who, on September 1, 2005, owns a producing well in Kinney
13 County that withdraws water from the aquifer may continue to
14 withdraw and beneficially use water without waste until final
15 action on permits by the authority if:

16 (1) the well is in compliance with all statutes and
17 rules relating to well construction, approval, location, spacing,
18 and operation; and

19 (2) the person files a declaration of historical use
20 as prescribed by Section 1.16(b-1) of this article.

21 (e) Subsection (d) of this section does not apply to a well
22 described by Subsection (a-1) of this section. Interim
23 authorization for a well described by Subsection (a-1) of this
24 section ends on:

25 (1) entry of a final and appealable order by the
26 authority acting on the application for the well; or

27 (2) March 1, 2006, if the well owner has not filed a

1 declaration of historical use.

2 SECTION 11. AMENDMENT. Subsection (b), Section 1.18,
3 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
4 is amended to read as follows:

5 (b) The authority may not consider or take action on an
6 application relating to a proposed or existing well of which there
7 is no evidence of actual beneficial use before June 1, 1993, until a
8 final determination has been made:

9 (1) on all initial regular permit applications
10 submitted on or before the initial application date of March 1,
11 1994; or

12 (2) on all initial regular permit applications
13 submitted for aquifer use in Kinney County on or before the initial
14 application date of March 1, 2006.

15 SECTION 12. AMENDMENT. Subsection (c), Section 1.34,
16 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
17 is amended to read as follows:

18 (c) A permit holder may lease permitted water rights, but a
19 holder of a permit to use water from the aquifer for irrigation use
20 may not lease more than 50 percent of the irrigation rights
21 initially permitted. The user's remaining irrigation water rights
22 must be used in accordance with the original permit and must pass
23 with transfer of the irrigated land.

24 SECTION 13. REPEALER. Chapter 1344, Acts of the 77th
25 Legislature, Regular Session, 2001, is repealed.

26 SECTION 14. TRANSITION: DISSOLUTION AND RULES. (a) On the
27 effective date of this Act:

1 (1) all the powers, duties, rights, assets, and
2 obligations of the Kinney County Groundwater Conservation District
3 become the powers, duties, rights, assets, and obligations of the
4 Edwards Aquifer Authority;

5 (2) all records, supplies, and other property relating
6 to the administration of the Kinney County Groundwater Conservation
7 District shall be transferred to the Edwards Aquifer Authority; and

8 (3) the Edwards Aquifer Authority shall be
9 automatically substituted for the Kinney County Groundwater
10 Conservation District in any judicial or administrative proceeding
11 to which, on the effective date of this Act, the Kinney County
12 Groundwater Conservation District is a party or is sitting or
13 serving as an administrative, regulatory, or adjudicative body.

14 (b) On completion of the transfer under Subdivision (2),
15 Subsection (a) of this section, the Kinney County Groundwater
16 Conservation District is dissolved.

17 (c) Any rule adopted by the Kinney County Groundwater
18 Conservation District before the effective date of this Act that
19 relates to the management or control of the Edwards Aquifer is void.
20 Any rule adopted by the Kinney County Groundwater Conservation
21 District before January 1, 2005, that relates to the management or
22 control of underground water other than water of the Edwards
23 Aquifer is, on the effective date of this Act, a rule of the Edwards
24 Aquifer Authority and remains in effect until amended or repealed
25 by the authority.

26 SECTION 15. TRANSITION: PERMITS AND HEARINGS. (a) In
27 this section:

1 (1) "Authority" means the Edwards Aquifer Authority.

2 (2) "District" means the Kinney County Groundwater
3 Conservation District.

4 (b) Not later than the 90th day after the effective date of
5 this Act and in accordance with this section, the authority shall
6 review and act on each application for a historic or existing use
7 permit for underground water other than water of the Edwards
8 Aquifer that was filed with the district on or before December 31,
9 2003, in accordance with the district's rules then in effect.

10 (c) If the district reviewed an application for and granted
11 a permit before the effective date of this Act and the applicant did
12 not timely file a motion for rehearing on the application, the
13 applicant shall, on or before December 31, 2005:

14 (1) notify the authority in writing that the applicant
15 accepts the permit granted by the district; or

16 (2) file with the authority a motion to reconsider the
17 application and review the district record of the application.

18 (d) If an applicant accepts the district permit under
19 Subsection (c) of this section, not later than the 45th day after
20 the date on which the authority receives the applicant's
21 acceptance, the authority shall issue to the applicant a permit
22 that has terms and conditions consistent with the terms and
23 conditions of the district permit and authorizes production amounts
24 equal to the amounts authorized by the district permit.

25 (e) If an applicant does not timely file an acceptance or a
26 motion for reconsideration under Subsection (c) of this section,
27 not later than February 14, 2006, the authority shall issue to the

1 applicant a permit that has terms and conditions consistent with
2 the terms and conditions of the district permit and authorizes
3 production amounts equal to the amounts authorized by the district
4 permit.

5 (f) If an applicant timely files a motion for
6 reconsideration under Subsection (c) of this section, not later
7 than the 90th day after the date on which the authority receives the
8 motion, the authority shall review the district record of the
9 application and, after notice to the applicant and an opportunity
10 for a hearing, make an independent recommendation on the issuance
11 of a permit based on the district's rules in effect on January 1,
12 2004, regarding the issuance of historic or existing use permits
13 and evidence in the record, including any additional information
14 presented by the applicant during a hearing conducted by the
15 authority.

16 (g) If an applicant received a permit from the district and
17 timely filed a motion for rehearing with the district, the
18 authority shall review the permit issued by the district and the
19 hearing report prepared by the district's presiding officer, as
20 that hearing report may have been amended on the record during the
21 district's public hearing on the application, and:

22 (1) issue to the applicant a permit that has terms and
23 conditions consistent with the hearing report as it may have been
24 amended during the district's hearings on the permit and authorizes
25 production amounts equal to the amounts recommended by the report;
26 or

27 (2) if the authority finds, after notice to the

1 applicant and an opportunity for a hearing, that the
2 recommendations in the hearing report are not supported by any
3 evidence on the record, issue to the applicant a permit with terms,
4 conditions, and production amounts the authority determines are
5 supported by evidence on the record.

6 (h) If the district has not granted a permit to an applicant
7 who submitted an application before the effective date of this Act,
8 but the presiding officer of the district has prepared a hearing
9 report on the application and the district has held a public hearing
10 on the application, the authority shall review the hearing report
11 and any amendment to the report that may have been made on the
12 record during the hearing and:

13 (1) issue to the applicant a permit that has terms and
14 conditions consistent with the hearing report as it may have been
15 amended during the hearing and authorizes production amounts equal
16 to the amounts recommended by the report; or

17 (2) if the authority finds, after notice to the
18 applicant and an opportunity for a hearing, that the
19 recommendations in the hearing report are not supported by any
20 evidence on the record, issue to the applicant a permit with terms,
21 conditions, and production amounts the authority determines are
22 supported by evidence on the record.

23 (i) An applicant aggrieved by the authority's decision on a
24 permit issued by the authority under this section may file a motion
25 for rehearing with the authority not later than the 20th day after
26 the date on which the authority issues the permit to the applicant
27 in writing. Not later than the 45th day after the date on which the

1 authority receives the motion, the authority shall act on the
2 motion. If the authority does not act on the motion in the time
3 allowed, the motion for rehearing is overruled by operation of law.
4 The authority's decision on a permit is final and appealable when
5 the motion for rehearing is overruled, in whole or in part, by the
6 authority in writing or by operation of law. The timely filing of a
7 motion for rehearing is a prerequisite to an appeal of the
8 authority's decision on a permit issued under this section. An
9 applicant aggrieved by the authority's decision on the motion for
10 rehearing may appeal the authority's decision by filing suit in
11 district court under Subchapter H, Chapter 36, Water Code. On
12 appeal, the district court shall conduct a trial de novo on the
13 application.

14 SECTION 16. TRANSITION: APPOINTMENT TO SOUTH CENTRAL TEXAS
15 WATER ADVISORY COMMITTEE. As soon as practicable after the
16 effective date of this Act, the Kinney County Commissioners Court
17 shall appoint a member of the South Central Texas Water Advisory
18 Committee under Subsection (a), Section 1.10, Chapter 626, Acts of
19 the 73rd Legislature, Regular Session, 1993, as amended by this
20 Act.

21 SECTION 17. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
22 (a) The legal notice of the intention to introduce this Act,
23 setting forth the general substance of this Act, has been published
24 as provided by law, and the notice and a copy of this Act have been
25 furnished to all persons, agencies, officials, or entities to which
26 they are required to be furnished under Section 59, Article XVI,
27 Texas Constitution, and Chapter 313, Government Code.

1 (b) The governor has submitted the notice and Act to the
2 Texas Commission on Environmental Quality.

3 (c) The Texas Commission on Environmental Quality has filed
4 its recommendations relating to this Act with the governor,
5 lieutenant governor, and speaker of the house of representatives
6 within the required time.

7 (d) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this Act are fulfilled
10 and accomplished.

11 SECTION 18. EFFECTIVE DATE. This Act takes effect
12 September 1, 2005.