

BILL ANALYSIS

C.S.H.B. 1292
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Edwards Aquifer Authority (authority) was created by the Edwards Aquifer Authority Act (Act) to preserve, protect and manage the Edwards Aquifer (aquifer). The aquifer provides water for municipal, industrial and irrigation use in central and south Texas and springflow in San Marcos and New Braunfels.

The Act passed in 1993. However, legal challenges prevented the authority from operating until June 1996. The Act created a 17 member board of directors that sets policy to manage, conserve, preserve, and protect the aquifer and works to increase recharge and prevent waste or pollution of the aquifer. The board has fifteen elected members from the region and two non-voting appointed members to carry out the duties set out in the Act. The Act also established the South Central Texas Water Advisory Committee made up of representatives from downstream counties to interact with the authority when issues related to downstream water rights are discussed.

The Act charges the authority with limiting annual groundwater withdrawal permits to 450,000 acre feet per annum for the period ending December 31, 2007, and to 400,000 acre-feet per annum for the period beginning January 1, 2008 (the caps). The Act also requires the authority to issue withdrawal permits to applicants that demonstrate, by convincing evidence, they beneficially used groundwater between 1972 and 1993, and provides most applicants with a guaranteed minimum permit. When the groundwater withdrawal permitting process was completed in 2005, the authority determined that the total amount of approved permits mandated by the Act was approximately 549,000 acre-feet. Because the authority has no discretion in the amount of the final permits based on the minimums, and because the authority cannot change the caps until it completes a number of scientific studies and consults with state and federal agencies, it is not possible to comply with both mandates in the Act.

The Act also provides that the authority may interrupt regular permit withdrawals if the level of the aquifer is below 650 feet above mean sea level at the J-17 Well for the San Antonio Pool and, for the Uvalde pool, when the J-27 well drops below 845 feet above mean sea level. These restrictions are designed to protect springflows at Comal and San Marcos springs, and protect downstream surface water rights during low aquifer conditions.

C.S.H.B. 1292 deletes the required permit reductions to 450,000/400,000 acre-feet and establishes the permit cap as the sum of all regular permits issued by the Authority as of 2007. C.S.H.B. 1292 establishes critical period management plan tables with specific withdrawal levels and triggers and allows the authority to own and operate recharge facilities. C.S.H.B. 1292 also requires the authority to participate in a recovery implementation program developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, for species associated with the aquifer that are listed as threatened or endangered species under federal law.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, as follows:

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(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting management fees or special fees from being used for purchasing or operating facilities.

SECTION 2. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.111 as follows:

Sec. 1.111. RECOVERY IMPLEMENTATION PROGRAM FOR LISTED THREATENED AND ENDANGERED SPECIES.

(a) Requires the authority, the Texas Commission on Environmental Quality (TCEQ), the Parks and Wildlife Department (TPWD), and the Texas Water Development Board (TWDB) to cooperate in the development of a recovery implementation program for the species that are: (1) listed as threatened or endangered species under federal law; and (2) associated with the aquifer.

(b) Requires the recovery implementation program to be developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, under Section 6(c), Endangered Species Act of 1973 (16 U.S.C. Section 1535); requires the authority and state agencies to use all good faith efforts to approve and execute the cooperative agreement not later than January 1, 2012, so that the agreement may take effect not later than December 31, 2012; requires the cooperative agreement to include agreements by the parties to pursue grant funding to the extent available from all available state, federal, and other sources for eligible programs under the cooperative agreement; requires the authority, the TCEQ, TPWD, and the TWDB, in developing the cooperative agreement, to solicit advice from the United States Fish and Wildlife Service and, to the extent practicable, all interested stakeholders, including certain enumerated water right holders, organizations, or interest groups.

(c) Requires the authority to file with the governor and each house of the legislature a written report on the progress of the recovery implementation program and any actions taken as a result of the program, no later than October 31 of each even-numbered year.

(d) Requires that, on completion of the recovery implementation program, the results of the program provide the basis for reevaluation and adjustment, if necessary, of the amount of permitted withdrawals authorized under Section 1.14(c) of this article and the withdrawal reduction percentages specified by Section 1.26(b) of this article.

SECTION 3. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (c), (e), (f), and (h), as follows:

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section (deletes exceptions for Subsection (d) and Section 1.26 of the article), for the period beginning January 1, 2008, from exceeding the sum of the amounts of groundwater authorized to be withdrawn under:

(1) all initial regular permits identified in the Order Implementing a Final Phase - 2 Proportional Adjustment and Amending Certain Initial Regular Permits issued by the Edwards Aquifer Authority board of directors (the board) on November 8, 2005;

(2) a final order issued by the board granting an application for an initial regular permit that was timely filed and was pending with the authority on November 8, 2005; and

(3) a final judgment of a court in:

(A) an administrative appeal from a final decision of the board on an application for an initial regular permit; and

(B) any other type of cause of action that requires the authority to issue a permit.

Deletes reference to a permit maximum of 400,000 acre-feet of water for each calendar year.

(e) Deletes language authorizing the authority to allow withdrawals from the aquifer through wells drilled after June 1, 1993 that constituted additional water as provided by Subsection (d) on an interruptible basis.

(f) Authorizes the authority, if the level of the aquifer is equal or greater than 660, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts; provides that the authority may authorize withdrawal from the San Marcos pool, if the springflow of the San Marcos Springs is equal to or greater than 120 cubic feet per second at the San Marcos Springs gauging station, on an uninterruptible basis, of permitted amounts; requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Requires the authority, through a program, and to accomplish the purposes of this article, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; deletes existing text regarding a deadline. Authorizes the authority, from time to time as appropriate, to revise practices, procedures, and methods and provides that to meet this requirement, the authority shall require (1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users in accordance with Section 1.26 of this article; or (2) implementation of alternative management practices, procedures, and methods.

SECTION 4. Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit initial regular permits, except as provided in Section 1.14(f) and (h) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total withdrawals authorized by all initial regular permits issued by the authority from exceeding the limitations provided by Section 1.14 of this article.

SECTION 5. Amends Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Subsection (b) and adding Subsection (d) as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio Pool of the aquifer unless the level of the aquifer is higher than 675, rather than 665, feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second.

(d) Prohibits a holder of a term permit from withdrawing water from the San Marcos pool of the aquifer unless the springflow of the San Marcos Springs is greater than 200 cubic feet per second, as measured at the San Marcos Springs gauging station.

SECTION 6. Section 1.21 and 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

Sec. 1.21. PERMIT RETIREMENT.

(a) Requires the authority to prepare and by rule implement a plan to retire the amount of groundwater authorized under Section 1.14(c) of this article to be withdrawn from the aquifer under initial regular permits to the required reduction level if required in order to implement Section 1.14(h) of this article. Deletes existing text regarding a deadline and reduction to 400,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article.

(b) Provides that the plan must be enforceable and must include measures to retire water rights in order to achieve the required reduction level. Deletes existing text regarding the inclusion of water conservation, reuse and other water management measures designed to achieve appropriate management of the resource.

(c) Authorizes that authority to implement the retirement plan through voluntary acquisitions. If voluntary methods are unsuccessful in attaining the required reduction level, the authority is required to reduce the amount of water authorized to be withdrawn under each initial regular permit by an equal percentage as necessary to achieve the required reduction level. Deletes existing text providing that if, on or after January 1, 2008, the overall volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article, the maximum authorized withdrawal of each regular permit shall be immediately reduced as necessary to reduce overall maximum demand to 400,000 acre-feet a year or the adjusted amount, as appropriate.

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(f) and (h) of this article. Deletes existing text regarding a deadline.

(b) Defines the terms "MSL" and "CFS" for this section. Requires the authority, not later than January 1, 2008, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in specifically described tables using critical period stages, whether according to the index well levels or Comal Springs flow, as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 (San Antonio Pool), 30 percent under Table 2 (Uvalde Pool), and 40 percent under Table 3 (San Marcos Pool).

(c) Requires the authority to 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. Requires the authority to 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. If, after a reduction in withdrawals to the Stage IV reduction level is required, the discharge rate at the Comal Springs or the San Marcos Springs declines by an additional 15 percent, the board, by order, may require further withdrawal reductions. Notwithstanding any other provisions of this article, the aggregate permitted withdrawals for the San Antonio pool, the Uvalde pool, and any other pool defined under Section 1.14(g) of this article may not be reduced to less than 340,000 acre-feet for each calendar year.

(d) Authorizes the authority, from time to time, to amend, by rule, the withdrawal reduction criteria of the authority's critical period management plan as set forth in

Subsection (b) of this section based on consultation with and consideration of any recommendations of the United States Fish and Wildlife Service.

SECTION 7. Amends Sections 1.29(a), (b), (d), and (i), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Requires that 75 percent of the cost of permit retirements under Section 1.21 of this article be borne by aquifer users and 25 percent of the cost must be borne by water rights holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs in the Guadalupe River Basin. Deletes existing text relating to the cost of withdrawal reductions or permit retirements being borne solely by users of the aquifer for reductions from the level on the effective date of this article to 450,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, and equally between aquifer users and downstream water right holders for permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, to 400,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period beginning January 1, 2008.

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(d) Requires the TCEQ to assess equitable special fees on all water right holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs, rather than downstream water right holders as referenced in current text; prohibits fees assessed under this subsection from exceeding 25 percent, rather than one-half, of the total cost of permit retirements under Section 1.21 of this article. Deletes current text referencing permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period ending December 31, 2007, to 400,000 acre-feet a year for the period beginning January 1, 2008.

(i) Requires the authority to provide money or services as necessary, but not to exceed \$75,000 annually, rather than five percent of the money collected under Subsection (d) of this section, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 8. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes and provide that the authority may undertake recharge projects in the contributing or recharge area of the aquifer.

SECTION 9. Repealer: Section 1.14(b) and (d) and 1.18, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. Effective Date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1292, Section 1.11 (f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, states that for the purposes of the subsection, "recharge facility" means a dam, reservoir, or other *form* of recharge project. The introduced version provided that "recharge facility" means a dam, reservoir, or other *method* of recharge project.

C.S.H.B. 1292 amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.111, as follows:

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Sec. 1.111. RECOVERY IMPLEMENTATION PROGRAM FOR LISTED
THREATENED AND ENDANGERED SPECIES.

- (a) Requires the authority, the Texas Commission on Environmental Quality (TCEQ), the Parks and Wildlife Department (TPWD), and the Texas Water Development Board (TWDB) to cooperate in the development of a recovery implementation program for the species that are: (1) listed as threatened or endangered species under federal law; and (2) associated with the aquifer.
- (b) Requires the recovery implementation program to be developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, under Section 6(c), Endangered Species Act of 1973 (16 U.S.C. Section 1535); requires the authority and state agencies to use all good faith efforts to approve and execute the cooperative agreement not later than January 1, 2012, so that the agreement may take effect not later than December 31, 2012; requires the cooperative agreement to include agreements by the parties to pursue grant funding to the extent available from all available state, federal, and other sources for eligible programs under the cooperative agreement; requires the authority, the TCEQ, TPWD, and the TWDB, in developing the cooperative agreement, shall solicit advice from the United States Fish and Wildlife Service and, to the extent practicable, all interested stakeholders, including certain enumerated water right holders, organizations, or interest groups.
- (c) Requires the authority to file with the governor and each house of the legislature a written report on the progress of the recovery implementation program and any actions taken as a result of the program, no later than October 31 of each even-numbered year.
- (d) Requires that, on completion of the recovery implementation program, the results of the program provide the basis for reevaluation and adjustment, if necessary, of the amount of permitted withdrawals authorized under Section 1.14(c) of this article and the withdrawal reduction percentages specified by Section 1.26(b) of this article.

Section 1.111, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act, is not contained in the introduced version.

C.S.H.B. 1292 does not include changes to Section 1.14(a), contained in the introduced version, that provided that authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface water and groundwater.

C.S.H.B. 1292 amends Section 1.14 (c), by prohibiting the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section (deletes exceptions for Subsection (d) and Section 1.26 of the article), for the period beginning January 1, 2008, from exceeding the sum of the amounts of groundwater authorized to be withdrawn under:

- (1) all initial regular permits identified in the Order Implementing a Final Phase - 2 Proportional Adjustment and Amending Certain Initial Regular Permits issued by Edwards Aquifer Authority board of directors (the board) on November 8, 2005;
- (2) a final order issued by the board granting an application for an initial regular permit that was timely filed and was pending with the authority on November 8, 2005; and
- (3) a final judgment of a court in:

(A) an administrative appeal from a final decision of the board on an application for an initial regular permit; and

(B) any other type of cause of action that requires the authority to issue a permit.

Deletes reference to a permit maximum of 400,000 acre-feet of water for each calendar year.

In the introduced version, Section 1.14(c), prohibited, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer from exceeding the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

C.S.H.B. 1292 amends Section 1.14(f), to authorize the authority, if the level of the aquifer is equal or greater than 660, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts; provides that the authority may authorize withdrawal from the San Marcos pool, if the springflow of the San Marcos Springs is equal to or greater than 120 cubic feet per second at the San Marcos Springs gauging station, on an uninterruptible basis, of permitted amounts; requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

The introduced version amended Section 1.14(f) authorizing the authority to allow withdrawals from the San Antonio pool, on an uninterruptible basis, if the level of the aquifer was equal or greater than 665 feet above mean sea level and the introduced version does not contain a San Marcos Pool.

C.S.H.B. 1292 amends Section 1.14(h), by requiring the authority, through a program, and to accomplish the purposes of this article, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; deletes existing text regarding a deadline. Authorizes the authority, from time to time as appropriate, to revise practices, procedures, and methods and provides that to meet this requirement, the authority shall require (1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users in accordance with Section 1.26 of this article; or (2) implementation of alternative management practices, procedures, and methods.

The introduced version amended Section 1.14(h) to require the authority to ensure continuous minimum springflows of the Comal Springs and San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law *and to achieve other purposes provided by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article.*

C.S.H.B. 1292 amends Section 1.15(c), prohibiting initial regular permits, except as provided in Section 1.14(f) and (h) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total withdrawals authorized by all initial regular permits issued by the authority from exceeding the limitations provided by Section 1.14 of this article.

The introduced version, in Section 1.15(c), did not reference an exception for Section 1.14(h) and also refers to "regular permits" throughout the subsection, whereas the substitute references "initial regular permits".

C.S.H.B. 1292 amends Section 1.19, by adding a new subsection (d) to prohibit a holder of a term permit from withdrawing water from the San Marcos pool of the aquifer unless the springflow of the San Marcos Springs is greater than 200 cubic feet per second, as measured at the San Marcos Springs gauging station.

The introduced version did not contain new subsection (d), Section 1.19 because there was not a San Marcos Pool in the introduced version.

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C.S.H.B. 1292 amends Section 1.21, to read as follows:

Sec. 1.21. PERMIT RETIREMENT.

- (a) Requires the authority to prepare and by rule implement a plan to retire the amount of groundwater authorized under Section 1.14(c) of this article to be withdrawn from the aquifer under initial regular permits to the required reduction level if required in order to implement Section 1.14(h) of this article. Deletes existing text regarding a deadline and reduction to 400,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article.
- (b) Provides that the plan must be enforceable and must include measures to retire water rights in order to achieve the required reduction level. Deletes existing text regarding the inclusion of water conservation, reuse and other water management measures designed to achieve appropriate management of the resource.
- (c) Authorizes that authority to implement the retirement plan through voluntary acquisitions. If voluntary methods are unsuccessful in attaining the required reduction level, the authority is required to reduce the amount of water authorized to be withdrawn under each initial regular permit by an equal percentage as necessary to achieve the required reduction level. Deletes existing text providing that if, on or after January 1, 2008, the overall volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article, the maximum authorized withdrawal of each regular permit shall be immediately reduced as necessary to reduce overall maximum demand to 400,000 acre-feet a year or the adjusted amount, as appropriate.

In the introduced version, Section 1.21 is repealed.

C.S.H.B. 1292 amends Section 1.26, to read as follows:

- Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(f) and (h) of this article. Deletes existing text regarding a deadline.
- (b) Defines the terms "MSL" and "CFS" for this section. Requires the authority, not later than January 1, 2008, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in specifically described tables using critical period stages, whether according to the index well levels or Comal Springs flow, as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 (San Antonio Pool), 30 percent under Table 2 (Uvalde Pool), and 40 percent under Table 3 (San Marcos Pool).
 - (c) Requires the authority to 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. Requires the authority to 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. If, after a reduction in withdrawals to the Stage IV reduction level is required, the discharge rate at the Comal Springs or the San Marcos Springs declines by an additional 15 percent, the board, by order, may require further withdrawal reductions. Notwithstanding any other provisions of this article, the aggregate permitted withdrawals for the San Antonio pool, the Uvalde pool, and any other pool defined under Section 1.14(g) of this article may not be reduced to less than 340,000 acre-feet for each calendar year.

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(d) Authorizes the authority, from time to time, to amend, by rule, the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsection (b) of this section based on consultation with and consideration of any recommendations of the United States Fish and Wildlife Service.

The introduced version, in Section 1.26(a) required the authority to prepare and coordinate implementation of a critical period management plan after review of the recommendations received, as prescribed by Section 1.26A of this article. C.S.H.B. 1292 does not contain an added Section 1.26A (DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT). Also in Section 1.26(a), the introduced version provided that the critical period management plan be consistent with Section 1.14(a) of this article, whereas the substitute provides that the critical period management plan be consistent with Section 1.14(f) and (h).

In Section 1.26(b), C.S.H.B. 1292 adds a Table 3 entitled CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN MARCOS POOL, and provides specific stages, triggers and withdrawal levels, with a total in critical period Stage IV of 40 percent. C.S.H.B. 1292 also changes the index well levels and withdrawal reduction percentages in Table 1 – CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL. Stage I is less than 660 feet above mean sea level as measured at Well J-17 with a withdrawal reduction percentage of 15%. In addition, Stage II withdrawal reduction percentage is 5%. In the introduced version, Stage I is less than 665 feet above mean sea level as measured at Well J-17 with a withdrawal reduction percentage of 10%. Stage II withdrawal reduction percentage is 10%. C.S.H.B. 1292 also adds San Marcos Springs flow as a trigger for the San Antonio Pool.

The introduced version, in Section 1.26(c), did not contain the language in the substitute authorizing further reductions after Stage IV based on the discharge rates at Comal and San Marcos Springs, and prohibiting reductions to less than 340,000 acre-feet for each calendar year. Rather, the introduced version contained, in Section 1.26(d), language reducing the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet under critical period stage IV beginning January 1, 2008 and a rate of 320,000 acre-feet under critical period stage IV after January 1, 2012. The introduced version contained language, in Section 1.26(e), requiring the authority, after review and consideration of recommendations received by the authority under Section 1.26A, to 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).

Section 1.26(f) of the introduced version also provided that the authority may amend the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsections (b), (c), and (e), 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 by Section 1.26A and consistent with Section 1.14(a). Because C.S.H.B. 1292 does not contain Section 1.26A or the Environmental Flows Commission review, the substitute does not contain the language in Section 1.26(f).

C.S.H.B. 1292 amends Section 1.29(a) by requiring that 75 percent of the cost of permit retirements under Section 1.21 of this article be borne by aquifer users and 25 percent of the cost must be borne by water rights holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs in the Guadalupe River Basin. Deletes existing text relating to the cost of withdrawal reductions or permit retirements being borne solely by users of the aquifer for reductions from the level on the effective date of this article to 450,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, and equally by aquifer users and downstream water right holders for permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, to 400,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period beginning January 1, 2008.

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In the introduced version, Section 1.29(a) is repealed.

C.S.H.B. 1292 amends Section 1.29(d) to require the TCEQ to assess equitable special fees on all water right holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs, rather than downstream water right holders as referenced in current text; prohibits fees assessed under this subsection from exceeding 25 percent, rather than one-half, of the total cost of permit retirements under Section 1.21 of this article. Deletes current text referencing permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period ending December 31, 2007, to 400,000 acre-feet a year for the period beginning January 1, 2008.

In the introduced version, Section 1.29(d) is repealed.

C.S.H.B. 1292 amends Section 1.29(i) by requiring the authority to provide money or services as necessary, but not to exceed \$75,000 annually, rather than five percent of the money collected under Subsection (d) of this section, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. In the introduced version, Section 1.29(i) referenced \$75,000 annually *adjusted for changes in the consumer price index*.

The introduced version added Section 1.29A, entitled BUDGETARY ADVISORY COMMITTEE. C.S.H.B. 1292 does not contain added Section 1.29A.

C.S.H.B. 1292 repeals Section 1.14(b) as of the effective date of the Act, whereas, in the introduced version Section 1.14(b) is repealed effective December 31, 2007.

The introduced version repeals Section 1.29(c) and (h), whereas C.S.H.B. 1292 does not.

C.S.H.B. 1292 provides for an effective date of September 1, 2007, whereas the introduced version provides that the effective date is September 1, 2007, except as otherwise provided in this Act.