

BILL ANALYSIS

C.S.S.B. 1341
By: Hegar
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 exceeded the caps. 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 during low aquifer conditions.

C.S.S.B. 1341 deletes the required permit reductions to 450,000/400,000 acre-feet and sets the amount of permitted withdrawals from the aquifer as close as possible to 572,000 acre-feet. C.S.S.B. 1341 establishes interim critical period management plan tables with specific withdrawal levels and triggers and allows the authority to use aquifer management fees to own and operate recharge facilities. C.S.S.B. 1341 also requires the authority to participate in a recovery implementation program developed through a implementing 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) reorganizes the Edwards Aquifer Authority's (authority) existing authority to own, finance, design, construct, operate, or maintain recharge facilities except in the Uvalde Pool, where the authority may only contract with an entity based in Uvalde County for the authority or that entity to own, finance, design, construct, operate, or maintain recharge facilities. Deletes existing text authorizing the authority to contract with a person who uses water from the aquifer for certain purposes. Deletes existing text as it relates to management fees or special fees thereby allowing the authority to use aquifer management fees to pay for recharge facilities. Defines "recharge facility." Deletes existing text defining "water supply facility."

SECTION 2. Amends Sections 1.14(c), (e), (f), and (h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(c) Except as provided by Subsections (f) and (h) of this section and Section 1.26 of this article, requires the amount of permitted withdrawals from the aquifer for the period beginning January 1, 2008, for each calendar year to be as close as possible to 572,000 acre-feet of water based on: (1) all initial regular permits issued on or before January 1, 2005, at the provisional groundwater withdrawal amount set out in paragraph 3.0 of those permits; and (2) all filed applications for which permit issuance was pending action by the authority as of January 1, 2005, at the groundwater withdrawal amount set out in paragraph 3.0 of those permits, irrespective of when issued, and calculated in the manner identical to those permits provisionally issued on or before January 1, 2005. Deletes existing text prohibiting the amount of permitted withdrawals from the aquifer from exceeding 400,000 acre-feet of water for each calendar year and deletes a reference to Subsection (d).

(e) Prohibits the authority from allowing withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit, rather than except for additional water as provided by Subsection (d) and then on an interruptible basis.

(f) Authorizes the authority, if the level of the aquifer is equal to or greater than 660 feet, 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. Deletes existing text requiring the authority to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Requires the authority, to accomplish the purposes of this article, to implement and enforce, through a program, 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 requiring the authority to accomplish the purposes of this article by June 1, 1994. Requires the authority to require phased adjustments to, rather than reductions in, the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article.

SECTION 3. Amends Section 1.16(g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to require the authority to issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or cancelled, rather than abandoned, cancelled, or retired.

SECTION 4. Amends Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Provides that withdrawal of water under a term permit must 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 water from the San Antonio Pool of

the aquifer unless the level of the aquifer is higher than 675 feet, rather than 665 feet, above sea level, as measured at Well J-17; the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 5. Amends Section 1.22(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Deletes existing text authorizing the authority to acquire permitted rights to use water from the aquifer for the purpose of holding those rights for retirement as a means of complying with pumping reduction requirements under this article; or retiring those rights, including those rights already permitted.

SECTION 6. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Section 1.26A, as follows:

Sec. 1.26. **CRITICAL PERIOD MANAGEMENT PLAN.** (a) Requires the authority, after review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, by rule to adopt a critical period management plan (plan) in a manner consistent with Sections 1.14(a), (f), and (h) of this article. Deletes existing text requiring the authority to prepare and coordinate implementation of a plan for critical period management by a certain period. Requires the authority, on adoption of the plan, to provide a written report to certain elected officials describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. Provides that the plan, rather than mechanisms, must include certain information. Sets forth the information to be included in the plan.

(b) Defines "MSL" and "CFS." Requires the authority, not later than January 1, 2008, by rule to adopt and enforce a interim critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 (Critical Period Withdrawal Reduction Stages for the San Antonio Pool) and 2 (Critical Period Withdrawal Reduction Stages for the Uvalde Pool), whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2. Provides Tables 1 and 2.

(c) Provides that a change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. Provides that a change to a critical stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. Authorizes the authority to adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Prohibits the authority from requiring the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical Stage IV, beginning September 1, 2007.

(e) Prohibits the authority from requiring the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV after January 1, 2013, unless after review and consideration by the authority of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for listed, threatened, and endangered species associated with the aquifer to the extent required by federal law.

(f) Authorizes the authority, notwithstanding Subsections (d) and (e) of this section, to require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. Provides that this subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Provides that notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed by that stage, be allowed to finish one already planted crop in the calendar year during which the critical period was in effect.

Sec. 1.26A. RECOVERY IMPLEMENTATION PROGRAM. (a) Requires the authority, with the assistance of Texas A&M University, to cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. Requires the implementation program to be developed for the species that are listed as threatened or endangered species under federal law and are associated with the aquifer.

(b) Requires the authority to use its best efforts to enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality (TCEQ), the Texas Parks and Wildlife Department (TPWD), the Texas Department of Agriculture (TDA), and the Texas Water Development Board (board), and other stake holders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outline in Subsection (d) of this section.

(c) Requires the authority to use its best efforts to enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, TCEQ, TPWD, TDA, the board, and other stakeholders to develop a program document that may be used to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) Requires the authority, TCEQ, TPWD, TDA, the board, and other stakeholders to jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. Sets forth the requirements for the program document.

(e) Requires Texas A&M University (TAMU) to assist in the creation of a steering committee (committee) to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. Requires the committee to be created not later than September 30, 2007. Sets forth the required composition of the committee.

(f) Requires the committee to work with TAMU to establish a regular meeting schedule and publish that schedule to encourage public participation; and not later than October 31, 2007, hire a program director to be housed at TAMU.

(g) Authorizes TAMU to accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the committee or subcommittees established by the committee.

(h) Provides that where reasonably practicable or as required by law, any meeting of the committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the committee must be open to the public.

(i) Requires the committee appointed under this section to appoint an Edwards Aquifer area expert science subcommittee (subcommittee) not later than December 31, 2007. Requires the subcommittee be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. Requires the Bureau of Economic Geology at The University of Texas at Austin and the River Systems Institute at Texas State University to assist the subcommittee. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the subcommittee.

(j) Requires the subcommittee to analyze, among other things, species requirements. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the subcommittee is required, through a collaborative process designed to achieve consensus, to develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. Requires the subcommittee to submit its recommendations to the committee and all other stakeholders involved in the recovery implementation program under this section.

(k) Provides that the initial recommendations of the subcommittee must be completed and submitted to the committee and other stakeholders not later than December 31, 2008, and should include certain enumerated evaluations.

(l) Requires the subcommittee, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available, and operate on a consensus basis to the maximum extent possible.

(m) Requires the committee, after development of the program document, with the assistance of the subcommittee and with input from the other recovery implementation program stakeholders, to prepare and submit recommendations to the authority. Requires that recommendations containing certain information be submitted to the authority.

(n) Defines "recharge facility." Requires the committee to establish a recharge facility feasibility subcommittee (feasibility committee) to assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; make recommendations to the committee for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and make recommendations to the committee regarding the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating facilities.

(o) Authorizes the committee to establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) Requires the committee to be dissolved as soon as practicable following the submittal of its recommendations to the authority under Subsection (m) of this section, but in no event later than December 31, 2012.

(q) Requires the authority to provide an annual report to certain elected government officials not later than January 1 of each year that details certain information.

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

(b) Authorizes each water district governed by Chapter 36, rather than Chapter 52, Water Code, that is within the authority's boundaries to contract with the authority to pay certain expenses.

(h) Prohibits fees assessed by the authority from being used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements. Deletes existing text prohibiting certain special fees to be used to finance a surface water supply reservoir project.

(i) Requires the authority and other stakeholders, including state agencies, listed under Section 1.26A of this Article to provide money as necessary to finance the activities of the committee and any subcommittees appointed by the committee and the program director of the recovery implementation program under Section 1.26A of this article. Requires the authority to provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, rather than money as necessary, but not to exceed 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, as follows:

(a) Authorizes the authority to own, finance, design, construct, operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, the recharge project does not impair senior water rights or vested riparian rights.

SECTION 9. Repealer: Sections 1.14(b) and (d), 1.21, and 1.29(a), (c), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. (a) Prior to January 1, 2012, prohibits a suit from being instituted in a state court contesting the validity or implementation of this Act, or the groundwater withdrawal amounts recognized in Section 2 of this Act.

(b) Requires, if applicable, a party that files suit in any court to be automatically removed from the committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) Prohibits a suit against the authority from being instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: Upon passage or September 1, 2007.

EFFECTIVE DATE

Effective date: upon passage or September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1341 removes language contained in the engrossed version adding Section 1.085, relating to limitation on powers of groundwater conservation districts regarding well spacing or the production or transport of water from certain wells.

C.S.S.B. 1341, in Section 1.11(f), reorganizes the authority's existing authority to own, finance, design, construct, operate or maintain recharge facilities, except in the Uvalde Pool, where the authority may only contract with an entity based in Uvalde County for the authority or that entity to own, finance, design, construct, operate, or maintain recharge facilities. The engrossed version does not include the provision excepting Uvalde County, where the authority may only contract with an entity based in Uvalde County for the authority or that entity to own, finance, design, construct, operate, or maintain recharge facilities. C.S.S.B. 1341 does not include language from the engrossed bill relating to the authority contracting with a person who uses water from the aquifer and does not include in the definition of "recharge facility", the phrase "but does not include a facility to recirculate water at Comal or San Marcos Springs" that is contained in the engrossed version.

C.S.S.B. 1341 provides that except as provided by Subsections (f) and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer for each calendar year shall be as close as possible to 572,000 acre-feet based on: (1) all initial regular permits issued on or before January 1, 2005, at the provisional groundwater withdrawal amount set out in paragraph 3.0 of those permits; and (2) all filed applications for which permit issuance was pending action by the authority as of January 1, 2005, at the groundwater withdrawal amount set out in paragraph 3.0 of those permits, irrespective of when issued, and calculated in the manner identical to those permits provisionally issued on or before January 1, 2005. The engrossed version provides that for the period beginning January 1, 2008 the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 acre-feet of water for each calendar year, which is 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.S.B. 1341 does not include an amendment to Section 1.14(a) contained in the engrossed version requiring authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater.

C.S.S.B. 1341 also does not include language contained in the engrossed version amending Section 1.14(h) to provide that to accomplish the purposes of this article, the authority, through a program, shall implement and enforce water management practices, procedures and methods to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article.

C.S.S.B. 1341 removes 1.26(a)(5) contained in the engrossed version providing that on adoption of the critical period management plan, the plan must allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress. Rather, C.S.S.B. 1341 adds Section 1.26(g) to provide that notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish one already planted crop in the calendar year during which the critical period is in effect.

C.S.S.B. 1341 amends Section 1.26(e) by replacing a reference to protected and endangered species with threatened and endangered species.

C.S.S.B. 1341 alters the title to Section 1.26A to read RECOVERY IMPLEMENTATION PROGRAM, rather than DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM in the engrossed version.

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C.S.S.B. 1341 amends Section 1.26A(b) to require the authority to use its best efforts to enter into a memorandum of agreement with United States Fish and Wildlife Service and other specified parties not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section. The engrossed version does not include a reference to best efforts. C.S.S.B. 1341 also clarifies the December 31, 2007 date applies to the memorandum of agreement.

C.S.S.B. 1341 amends Section 1.26A(c) to require the authority to use its best efforts to enter into an implementing agreement with the United States Fish and Wildlife Service and other specified parties to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009. The engrossed version does not include a reference to best efforts.

C.S.S.B. 1341 amends Section 1.26A(e) by changing the required composition of the steering committee from that described in the engrossed version. Specifically, Subsection (e) of the substitute provides the initial steering committee shall be composed of: a representative of each of the following entities, as appointed by the governing body of that entity: (A) the authority; (B) the commission; (C) the Parks and Wildlife Department; (D) the Department of Agriculture; (E) The Texas Water Development Board; and (2) eight other persons as follows: (A) five holders of initial regular permits issued by the authority, to be appointed by the authority, including: (i) a representative of the municipal permit holder authorized to withdraw the most acre-feet of groundwater; and (ii) a representative of a holder of an initial regular permit issued for irrigation; and (B) three holders of surface water rights in the Guadalupe River Basin, to be appointed by the commission.

In the engrossed version, the steering committee is required to be composed of: (1) a representative of each of the following entities, as appointed by the governing body of that entity: (A) the Edwards Aquifer Authority; (B) the Texas Commission on Environmental Quality; (C) the Parks and Wildlife Department; (D) the Department of Agriculture; (E) the Water Development Board; (F) the San Antonio Water System; (G) the Guadalupe-Blanco River Authority; (H) the San Antonio River Authority; (I) the South Central Texas Water Advisory Committee; (J) the Guadalupe Basin Coalition; (K) Bexar County; and (2) eight other persons who respectively must be: (A) a representative of a holder of an initial regular permit issued to a retail public utility other than the San Antonio Water System, to be appointed by the authority; (B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority; (C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality; (D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality; (E) a representative of a holder of an initial regular permit holder issued by the authority for irrigation, to be appointed by the commissioner of agriculture; (F) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture; (G) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and (H) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

C.S.S.B. 1341 does not contain language adding Section 1.26A(e-1) that is contained in the engrossed version requiring certain members of the initial steering committee to each contribute \$500,000 to fund the initial stages of the recovery implementation program process until federal, state, or other funds become available.

C.S.S.B. 1341 amends Section 1.26A(j) to require that the Edwards Aquifer area expert science subcommittee, among other things, analyze species requirements. The engrossed version requires that the Edwards Aquifer area expert science subcommittee, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels.

C.S.S.B. 1341 amends Section 1.26A(k)(2) to provide that the initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the

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steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species at the Comal Springs and the San Marcos Springs. The engrossed version does not expressly reference the Comal Springs and the San Marcos Springs.

C.S.S.B. 1341 amends Section 1.26A(m) by referencing development of a program document, rather than a cooperative agreement as referenced in the engrossed version.

C.S.S.B. 1341 amends Section 1.26A(n) to provide a definition of "recharge facility" for purposes of this subsection, but the definition does not contain the phrase "but does not include facilities designed to recirculate water at Comal or San Marcos Springs" that is included in the engrossed version.

C.S.S.B. 1341 alters Section 1.26A(n) from the engrossed version, by requiring the steering committee to establish a recharge facility feasibility subcommittee to perform certain duties, including make recommendations to the steering committee for, rather than formulate plans to allow, the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities and make recommendations to the steering committee regarding, rather than evaluate, the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

C.S.S.B. 1341 adds Section 1.26A(p) to require that the steering committee dissolve as soon as practicable after submitting its recommendations to the authority under Subsection (m) of this section but not later than December 31, 2012, replacing the language contained in Section 1.26A(p) of the engrossed version. Section 1.26A(p) of the engrossed version provides that on execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

C.S.S.B. 1341 does not contain SECTION 9 of the engrossed version amending Section 1.34 by amending Subsection (c) and adding Subsections (d), (e), (f), and (g) relating to transfer and conversion of irrigation rights.

C.S.S.B. 1341 amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to authorize the authority to own, finance, design, construct, operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, the recharge project does not impair senior water rights or vested riparian rights. C.S.S.B. 1341 does not contain the language "and the recharge project is not designed to recirculate water at Comal or San Marcos Springs" included in the engrossed version.

C.S.S.B. 1341 provides in SECTION 10 of the bill: (a) Prior to January 1, 2012, prohibits a suit from being instituted in a state court contesting the validity or implementation of this Act, or the groundwater withdrawal amounts recognized in Section 2 of this Act, rather than Section 3 as referenced in the engrossed version. (b) Requires, if applicable, a party that files suit in any court to be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act. (c) Prohibits a suit against the authority from being instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. C.S.S.B. 1341 does not state that this section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as stated in the engrossed version.

C.S.S.B. 1341 makes conforming changes.

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