

By: Watson

S.B. No. 747

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of the Barton Springs-Edwards Aquifer
3 Conservation District to charge certain fees and limit groundwater
4 production during a drought.

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

6 SECTION 1. Subsection (d), Section 36.205, Water Code, is
7 amended to read as follows:

8 (d) The [~~Barton Springs-Edwards Aquifer Conservation~~
9 ~~District, the~~] Lone Star Groundwater Conservation District[~~7~~] and
10 the Guadalupe County Groundwater Conservation District may not
11 charge production fees for an annual period greater than \$1 per
12 acre-foot for water used for agricultural use or 17 cents per
13 thousand gallons for water used for any other purpose. [~~The Barton~~
14 ~~Springs-Edwards Aquifer Conservation District may assess a water~~
15 ~~use fee against a specific municipality in an amount not to exceed~~
16 ~~60 percent of the total funding of the district received from water~~
17 ~~use fees assessed against that municipality and other nonexempt~~
18 ~~users in the district.~~] This subsection shall take precedence over
19 all prior enactments.

20 SECTION 2. Subchapter C, Chapter 8802, Special District
21 Local Laws Code, is amended by adding Section 8802.1045 to read as
22 follows:

23 Sec. 8802.1045. AMOUNT OF ANNUAL PRODUCTION FEE.

24 (a) Except as provided by this section, the board may not charge an

1 annual production fee of more than \$1 per acre-foot for water
2 permitted for agricultural use or 17 cents per thousand gallons for
3 water permitted for any other purpose.

4 (b) For a permit first issued after September 1, 2007, or a
5 permit first issued after September 9, 2004, and renewed after
6 September 1, 2007, the board may charge, for the amount of water
7 permitted under the permit as issued or renewed if the water is
8 permitted for any purpose other than agricultural use, an annual
9 production fee of not more than the greater of:

10 (1) 38 cents per thousand gallons; or

11 (2) the raw surface water cost of other wholesale
12 suppliers serving customers in the district.

13 (c) For a permit that is materially amended after September
14 1, 2007, the board may charge, for only the additional amount of
15 water authorized by the material amendment if the water is
16 permitted for any purpose other than agricultural use, an annual
17 production fee of not more than the greater of:

18 (1) 38 cents per thousand gallons; or

19 (2) the raw surface water cost of other wholesale
20 suppliers serving customers in the district.

21 (d) For a permit first issued on or before September 9,
22 2004, that is renewed without material amendment after September 1,
23 2007, the board may not charge an annual production fee of more than
24 17 cents per thousand gallons for the amount of water permitted
25 under the permit as renewed if the water is permitted for any
26 purpose other than agricultural use.

27 (e) The board may adopt a differential rate structure for

1 the nonagricultural production fees described by this section to
2 promote alternatives to the exclusive use of groundwater resources.

3 (f) A material amendment under this section is an amendment
4 to a permit that increases the amount of water permitted by more
5 than 10 percent in one fiscal year or by more than 25 percent in any
6 three-year period. The renewal on or after September 1, 2007, of a
7 permit that was issued on or before September 9, 2004, is considered
8 to be a material amendment for purposes of this section if the
9 permit as renewed increases the amount of water permitted by an
10 amount that exceeds the limits specified by this subsection.

11 SECTION 3. Section 8802.105, Special District Local Laws
12 Code, is amended to read as follows:

13 Sec. 8802.105. CERTAIN WATER USE FEES PERMITTED. (a)
14 Each year the board may assess against the City of Austin a water
15 use fee in an amount not to exceed 60 [~~40~~] percent of the total
16 funding [~~of~~] the district expects to receive for the next fiscal
17 year [~~received~~] from water use fees assessed against Austin and
18 other nonexempt users in that year, subject to the computation
19 under Subsection (b).

20 (b) For purposes of computing water use fees under this
21 section, the district shall estimate the amount of permitted
22 pumpage for the next fiscal year by considering various factors
23 including historical growth rates, future growth rates, the amount
24 of permitted pumpage, historical permitted pumpage, and any pending
25 applications for permitted pumpage. The district shall use the
26 estimated amount of permitted pumpage and its water use fee rate to
27 compute the water use fee to be assessed against the City of Austin

1 for the district's next fiscal year. The district shall compute the
2 water use fee assessed against the City of Austin at a rate of 17
3 cents per thousand gallons for the total amount of water permitted
4 for any nonagricultural purpose, regardless of the rate actually
5 imposed on or remitted by the permittee.

6 SECTION 4. Subchapter C, Chapter 8802, Special District
7 Local Laws Code, is amended by adding Sections 8802.109 and
8 8802.110 to read as follows:

9 Sec. 8802.109. RESTRICTIONS ON PRODUCTION DURING DROUGHT.

10 (a) During a period declared by the district to be a drought and
11 only as specified in the district's approved management plan, the
12 district may restrict or prohibit groundwater production as
13 provided by this section.

14 (b) The district may restrict groundwater production on an
15 equivalent, pro-rata basis for permits first issued on or before
16 September 9, 2004, including permits renewed after September 1,
17 2007.

18 (c) The district, to protect the conditions of the aquifer,
19 may restrict or prohibit groundwater production:

20 (1) for permits first issued after September 9, 2004;

21 and

22 (2) for permits first issued on or before September 9,
23 2004, and amended after September 9, 2004, for any additional
24 amount of water authorized by the amendment.

25 Sec. 8802.110. RESTRICTIONS ON PRODUCTION DURING EXTREME
26 DROUGHT. (a) During a period declared by the district to be an
27 extreme drought, to maintain groundwater production necessary to

1 sustain human consumption and protect the public's health, safety,
2 and welfare, the district, as provided by this section, may impose
3 greater restrictions on groundwater production for industrial,
4 commercial, or nonagricultural irrigation permits than the
5 district imposes on permits for other uses.

6 (b) For an industrial, commercial, or nonagricultural
7 irrigation permit first issued on or before September 9, 2004, the
8 district may restrict withdrawals by an amount not to exceed 40
9 percent of the amount permitted on or before September 9, 2004,
10 retaining at least 60 percent of the total authorized pumpage, if:

11 (1) an alternative water supply for at least 10
12 percent of the amount permitted is available and in place during the
13 extreme drought; and

14 (2) any restriction imposed by the district under
15 Sections 8802.109(b) and (c) remains in effect.

16 (c) For industrial, commercial, and nonagricultural
17 irrigation permits first issued on or before September 9, 2004, and
18 amended after September 9, 2004, the district may impose greater
19 restrictions, including complete curtailment, for the additional
20 amount of water authorized by the amendment than the district
21 imposes on similarly situated permittees for other uses.

22 SECTION 5. The legislature finds that the Barton
23 Springs-Edwards Aquifer Conservation District benefits the
24 sustainable use of groundwater by promoting, through fee and
25 permitting mechanisms, alternatives to the exclusive use of
26 groundwater resources, including the conjunctive use of
27 groundwater and surface water resources.

1 SECTION 6. This Act takes effect September 1, 2007.