

1-1 By: Watson S.B. No. 747  
1-2 (In the Senate - Filed February 19, 2007; March 6, 2007,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 April 26, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 26, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 747 By: Eltife

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the authority of the Barton Springs-Edwards Aquifer  
1-11 Conservation District to charge certain fees and limit groundwater  
1-12 production during a drought.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (d), Section 36.205, Water Code, is  
1-15 amended to read as follows:

1-16 (d) The ~~[Barton Springs-Edwards Aquifer Conservation~~  
1-17 ~~District, the]~~ Lone Star Groundwater Conservation District~~[,]~~ and  
1-18 the Guadalupe County Groundwater Conservation District may not  
1-19 charge production fees for an annual period greater than \$1 per  
1-20 acre-foot for water used for agricultural use or 17 cents per  
1-21 thousand gallons for water used for any other purpose. ~~[The Barton~~  
1-22 ~~Springs-Edwards Aquifer Conservation District may assess a water~~  
1-23 ~~use fee against a specific municipality in an amount not to exceed~~  
1-24 ~~60 percent of the total funding of the district received from water~~  
1-25 ~~use fees assessed against that municipality and other nonexempt~~  
1-26 ~~users in the district.]~~ This subsection shall take precedence over  
1-27 all prior enactments.

1-28 SECTION 2. Subchapter C, Chapter 8802, Special District  
1-29 Local Laws Code, is amended by adding Section 8802.1045 to read as  
1-30 follows:

1-31 Sec. 8802.1045. AMOUNT OF ANNUAL PRODUCTION FEE.

1-32 (a) Except as provided by this section, the board may not charge an  
1-33 annual production fee of more than \$1 per acre-foot for water  
1-34 permitted for agricultural use or 17 cents per thousand gallons for  
1-35 water permitted for any other purpose.

1-36 (b) For a permit first issued after September 1, 2007, or a  
1-37 permit first issued after September 9, 2004, and renewed after  
1-38 September 1, 2007, the board may charge, for the amount of water  
1-39 permitted under the permit as issued or renewed if the water is  
1-40 permitted for any purpose other than agricultural use, an annual  
1-41 production fee of not more than the greater of:

1-42 (1) 38 cents per thousand gallons; or  
1-43 (2) the raw surface water cost of other wholesale  
1-44 suppliers serving customers in the district.

1-45 (c) For a permit that is materially amended after September  
1-46 1, 2007, the board may charge, for only the additional amount of  
1-47 water authorized by the material amendment if the water is  
1-48 permitted for any purpose other than agricultural use, an annual  
1-49 production fee of not more than the greater of:

1-50 (1) 38 cents per thousand gallons; or  
1-51 (2) the raw surface water cost of other wholesale  
1-52 suppliers serving customers in the district.

1-53 (d) For a permit first issued on or before September 9,  
1-54 2004, that is renewed without material amendment after September 1,  
1-55 2007, the board may not charge an annual production fee of more than  
1-56 17 cents per thousand gallons for the amount of water permitted  
1-57 under the permit as renewed if the water is permitted for any  
1-58 purpose other than agricultural use.

1-59 (e) The board may adopt a differential rate structure for  
1-60 the nonagricultural production fees described by this section to  
1-61 promote alternatives to the exclusive use of groundwater resources.

1-62 (f) A material amendment under this section is an amendment  
1-63 to a permit that increases the amount of water permitted by more

2-1 than 10 percent in one fiscal year or by more than 25 percent in any  
 2-2 three-year period. The renewal on or after September 1, 2007, of a  
 2-3 permit that was issued on or before September 9, 2004, is considered  
 2-4 to be a material amendment for purposes of this section if the  
 2-5 permit as renewed increases the amount of water permitted by an  
 2-6 amount that exceeds the limits specified by this subsection.

2-7 SECTION 3. Section 8802.105, Special District Local Laws  
 2-8 Code, is amended to read as follows:

2-9 Sec. 8802.105. CERTAIN WATER USE FEES PERMITTED. (a)  
 2-10 Each year the board may assess against the City of Austin a water  
 2-11 use fee in an amount not to exceed 60 [40] percent of the total  
 2-12 funding [~~of~~] the district expects to receive for the next fiscal  
 2-13 year [received] from water use fees assessed against Austin and  
 2-14 other nonexempt users in that year, subject to the computation  
 2-15 under Subsection (b).

2-16 (b) For purposes of computing water use fees under this  
 2-17 section, the district shall estimate the amount of permitted  
 2-18 pumpage for the next fiscal year by considering various factors  
 2-19 including historical growth rates, future growth rates, the amount  
 2-20 of permitted pumpage, historical permitted pumpage, and any pending  
 2-21 applications for permitted pumpage. The district shall use the  
 2-22 estimated amount of permitted pumpage and its water use fee rate to  
 2-23 compute the water use fee to be assessed against the City of Austin  
 2-24 for the district's next fiscal year. The district shall compute the  
 2-25 water use fee assessed against the City of Austin at a rate of 17  
 2-26 cents per thousand gallons for the total amount of water permitted  
 2-27 for any nonagricultural purpose, regardless of the rate actually  
 2-28 imposed on or remitted by the permittee.

2-29 SECTION 4. Subchapter C, Chapter 8802, Special District  
 2-30 Local Laws Code, is amended by adding Sections 8802.109 and  
 2-31 8802.110 to read as follows:

2-32 Sec. 8802.109. RESTRICTIONS ON PRODUCTION DURING DROUGHT.  
 2-33 (a) During a period declared by the district to be a drought and  
 2-34 only as specified in the district's approved management plan, the  
 2-35 district may restrict or prohibit groundwater production as  
 2-36 provided by this section.

2-37 (b) The district may restrict groundwater production on an  
 2-38 equivalent, pro-rata basis for permits first issued on or before  
 2-39 September 9, 2004, including permits renewed after September 1,  
 2-40 2007.

2-41 (c) The district, to protect the conditions of the aquifer,  
 2-42 may restrict or prohibit groundwater production:

2-43 (1) for permits first issued after September 9, 2004;  
 2-44 and

2-45 (2) for permits first issued on or before September 9,  
 2-46 2004, and amended after September 9, 2004, for any additional  
 2-47 amount of water authorized by the amendment.

2-48 Sec. 8802.110. RESTRICTIONS ON PRODUCTION DURING EXTREME  
 2-49 DROUGHT. (a) During a period declared by the district to be an  
 2-50 extreme drought, to maintain groundwater production necessary to  
 2-51 sustain human consumption and protect the public's health, safety,  
 2-52 and welfare, the district, as provided by this section, may impose  
 2-53 greater restrictions on groundwater production for industrial,  
 2-54 commercial, or nonagricultural irrigation permits than the  
 2-55 district imposes on permits for other uses.

2-56 (b) For an industrial, commercial, or nonagricultural  
 2-57 irrigation permit first issued on or before September 9, 2004, the  
 2-58 district may restrict withdrawals by an amount not to exceed 40  
 2-59 percent of the amount permitted on or before September 9, 2004,  
 2-60 retaining at least 60 percent of the total authorized pumpage, if:

2-61 (1) an alternative water supply for at least 10  
 2-62 percent of the amount permitted is available and in place during the  
 2-63 extreme drought; and

2-64 (2) any restriction imposed by the district under  
 2-65 Sections 8802.109(b) and (c) remains in effect.

2-66 (c) For industrial, commercial, and nonagricultural  
 2-67 irrigation permits first issued on or before September 9, 2004, and  
 2-68 amended after September 9, 2004, the district may impose greater  
 2-69 restrictions, including complete curtailment, for the additional

3-1 amount of water authorized by the amendment than the district  
3-2 imposes on similarly situated permittees for other uses.

3-3 SECTION 5. The legislature finds that the Barton  
3-4 Springs-Edwards Aquifer Conservation District benefits the  
3-5 sustainable use of groundwater by promoting, through fee and  
3-6 permitting mechanisms, alternatives to the exclusive use of  
3-7 groundwater resources, including the conjunctive use of  
3-8 groundwater and surface water resources.

3-9 SECTION 6. This Act takes effect September 1, 2007.

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