

By: Hegar, et al.

S.B. No. 1341

A BILL TO BE ENTITLED

AN ACT

relating to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

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

SECTION 1. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.085 to read as follows:

Sec. 1.085. LIMITATION ON POWERS. (a) This section applies only to a water well:

(1) that is located:

(A) outside the territory regulated by the authority; and

(B) in a county containing land that is in the territory regulated by the authority;

(2) that serves as a public water supply to customers in at least four counties, provided that a majority of those counties contain land in the territory regulated by the authority; and

(3) for which the public water system plan review submittal form was received by the commission before the effective date of the Act enacting this section.

(b) Notwithstanding any other law, a water well to which this section applies is exempt from the rules imposed by any

1 groundwater conservation district regarding well spacing or the
2 production or transport of water from the well.

3 SECTION 2. Subsection (f), Section 1.11, Chapter 626, Acts
4 of the 73rd Legislature, Regular Session, 1993, is amended to read
5 as follows:

6 (f) The authority may own, finance, design, ~~[contract with a~~
7 ~~person who uses water from the aquifer for the authority or that~~
8 ~~person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain
9 recharge [water supply] facilities or contract with a person who
10 uses water from the aquifer for the authority or that person to own,
11 finance, design, construct, operate, or maintain recharge
12 facilities. ~~[Management fees or special fees may not be used for~~
13 ~~purchasing or operating these facilities.]~~ For the purpose of this
14 subsection, "recharge [water supply] facility" means ~~[includes]~~ a
15 dam, reservoir, ~~[treatment facility, transmission facility,]~~ or
16 other method of recharge project and associated facilities,
17 structures, or works but does not include a facility to recirculate
18 water at Comal or San Marcos Springs.

19 SECTION 3. Subsections (a), (c), (e), (f), and (h), Section
20 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,
21 1993, are amended to read as follows:

22 (a) Authorizations to withdraw water from the aquifer and
23 all authorizations and rights to make a withdrawal under this Act
24 shall be limited in accordance with this section to:

- 25 (1) protect the water quality of the aquifer;
26 (2) protect the water quality of the surface streams
27 to which the aquifer provides springflow;

1 (3) achieve water conservation;

2 (4) maximize the beneficial use of water available for
3 withdrawal from the aquifer;

4 (5) recognize the extent of the hydro-geologic
5 connection and interaction between surface water and groundwater;

6 (6) protect aquatic and wildlife habitat;

7 (7) [~~6~~] protect species that are designated as
8 threatened or endangered under applicable federal or state law; and

9 (8) [~~7~~] provide for instream uses, bays, and
10 estuaries.

11 (c) Except as provided by Subsections [~~d~~], (f) [~~7~~] and (h)
12 of this section and Section 1.26 of this article, for the period
13 beginning January 1, 2008, the amount of permitted withdrawals from
14 the aquifer may not exceed or be less than 572,000 [~~400,000~~]
15 acre-feet of water for each calendar year, which is the sum of all
16 regular permits issued or for which an application was filed and
17 issuance was pending action by the authority as of January 1, 2005.

18 (e) The authority may not allow withdrawals from the aquifer
19 through wells drilled after June 1, 1993, except for replacement,
20 test, or exempt wells or to the extent that the authority approves
21 an amendment to an initial regular permit to authorize a change in
22 the point of withdrawal under that permit [~~additional water as~~
23 ~~provided by Subsection (d) and then on an interruptible basis].~~

24 (f) If the level of the aquifer is equal to or greater than
25 660 [~~650~~] feet above mean sea level as measured at Well J-17, the
26 authority may authorize withdrawal from the San Antonio pool, on an
27 unintermittible basis, of permitted amounts. If the level of the

1 aquifer is equal to or greater than 845 feet at Well J-27, the
2 authority may authorize withdrawal from the Uvalde pool, on an
3 uninterrupted basis, of permitted amounts. [~~The authority shall~~
4 ~~limit the additional withdrawals to ensure that springflows are not~~
5 ~~affected during critical drought conditions.~~]

6 (h) To accomplish the purposes of this article, [~~by June 1,~~
7 ~~1994,~~] the authority, through a program, shall implement and
8 enforce water management practices, procedures, and methods to
9 ensure that, not later than December 31, 2012, the continuous
10 minimum springflows of the Comal Springs and the San Marcos Springs
11 are maintained to protect endangered and threatened species to the
12 extent required by federal law and to achieve other purposes
13 provided by Subsection (a) of this section and Section 1.26 of this
14 article. The authority from time to time as appropriate may revise
15 the practices, procedures, and methods. To meet this requirement,
16 the authority shall require:

17 (1) phased adjustments to [~~reductions in~~] the amount
18 of water that may be used or withdrawn by existing users or
19 categories of other users, including adjustments in accordance with
20 the authority's critical period management plan established under
21 Section 1.26 of this article; or

22 (2) implementation of alternative management
23 practices, procedures, and methods.

24 SECTION 4. Subsection (g), Section 1.16, Chapter 626, Acts
25 of the 73rd Legislature, Regular Session, 1993, is amended to read
26 as follows:

27 (g) The authority shall issue an initial regular permit

1 without a term, and an initial regular permit remains in effect
2 until the permit is abandoned or[~~7~~] cancelled[~~7~~, ~~or retired~~].

3 SECTION 5. Subsection (b), Section 1.19, Chapter 626, Acts
4 of the 73rd Legislature, Regular Session, 1993, is amended to read
5 as follows:

6 (b) Withdrawal of water under a term permit must be
7 consistent with the authority's critical period management plan
8 established under Section 1.26 of this article. A holder of a term
9 permit may not withdraw water from the San Antonio pool of the
10 aquifer unless:

11 (1) the level of the aquifer is higher than 675 [665]
12 feet above sea level, as measured at Well J-17;

13 (2) the flow at Comal Springs as determined by Section
14 1.26(c) of this article is greater than 350 cubic feet per second;
15 and

16 (3) the flow at San Marcos Springs as determined by
17 Section 1.26(c) of this article is greater than 200 cubic feet per
18 second.

19 SECTION 6. Subsection (a), Section 1.22, Chapter 626, Acts
20 of the 73rd Legislature, Regular Session, 1993, is amended to read
21 as follows:

22 (a) The authority may acquire permitted rights to use water
23 from the aquifer for the purposes of:

24 (1) holding those rights in trust for sale or transfer
25 of the water or the rights to persons within the authority's
26 jurisdiction who may use water from the aquifer;

27 (2) holding those rights in trust as a means of

1 managing overall demand on the aquifer; or

2 (3) holding those rights for resale [~~or retirement as~~
3 ~~a means of complying with pumping reduction requirements under this~~
4 ~~article; or~~

5 [~~(4) retiring those rights, including those rights~~
6 ~~already permitted~~].

7 SECTION 7. Article 1, Chapter 626, Acts of the 73rd
8 Legislature, Regular Session, 1993, is amended by amending Section
9 1.26 and adding Section 1.26A to read as follows:

10 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
11 review of the recommendations received in the program document, as
12 prescribed by Section 1.26A of this article, the [The] authority by
13 rule shall adopt [prepare and coordinate implementation of] a [plan
14 ~~for]~~ critical period management plan consistent with Sections
15 1.14(a), (f), and (h) of this article [on or before September 1,
16 ~~1995]. On adoption of the critical period management plan, the~~
17 authority shall provide a written report to the governor,
18 lieutenant governor, and speaker of the house of representatives
19 describing the actions taken in response to each recommendation
20 and, for each recommendation not implemented, the reason it was not
21 implemented. The plan [mechanisms] must:

22 (1) distinguish between discretionary use and
23 nondiscretionary use;

24 (2) require reductions of all discretionary use to the
25 maximum extent feasible;

26 (3) require utility pricing, to the maximum extent
27 feasible, to limit discretionary use by the customers of water

1 utilities; ~~and~~

2 (4) require reduction of nondiscretionary use by
3 permitted or contractual users, to the extent further reductions
4 are necessary, in the reverse order of the following water use
5 preferences:

6 (A) municipal, domestic, and livestock;

7 (B) industrial and crop irrigation;

8 (C) residential landscape irrigation;

9 (D) recreational and pleasure; and

10 (E) other uses that are authorized by law; and

11 (5) allow irrigation use to continue in order to
12 permit the user to complete the irrigation of a crop in progress.

13 (b) In this section, "MSL" means the elevation above mean
14 sea level, measured in feet, of the surface of the water in a well,
15 and "CFS" means cubic feet per second. Not later than January 1,
16 2008, the authority shall, by rule, adopt and enforce a critical
17 period management plan with withdrawal reduction percentages in the
18 amounts indicated in Tables 1 and 2 whether according to the index
19 well levels or the Comal or San Marcos Springs flow as applicable,
20 for a total in critical period Stage IV of 40 percent of the
21 permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE SAN ANTONIO POOL

<u>Comal</u>	<u>San Marcos</u>	<u>Index Well</u>	<u>Critical</u>	<u>Withdrawal</u>
<u>Springs Flow</u>	<u>Springs Flow</u>	<u>J-17 Level</u>	<u>Period Stage</u>	<u>Reduction-</u>
<u>CFS</u>	<u>CFS</u>	<u>MSL</u>		<u>San Antonio</u>
				<u>Pool</u>
<u><225</u>	<u><96</u>	<u><660</u>	<u>I</u>	<u>20%</u>
<u><200</u>	<u><80</u>	<u><650</u>	<u>II</u>	<u>30%</u>
<u><150</u>	<u>N/A</u>	<u><640</u>	<u>III</u>	<u>35%</u>
<u><100</u>	<u>N/A</u>	<u><630</u>	<u>IV</u>	<u>40%</u>

TABLE 2
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE UVALDE POOL

<u>Withdrawal</u>	<u>Index Well J-27</u>	<u>Critical Period</u>
<u>Reduction-Uvalde</u>	<u>Level MSL</u>	<u>Stage</u>
<u>Pool</u>		
<u>N/A</u>	<u>---</u>	<u>I</u>
<u>5%</u>	<u><850</u>	<u>II</u>
<u>20%</u>	<u><845</u>	<u>III</u>
<u>35%</u>	<u><842</u>	<u>IV</u>

(c) 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. A change to a critical period stage with lower

1 withdrawal reduction percentages is triggered only when the 10-day
2 average of daily springflows at the Comal Springs and the San Marcos
3 Springs and the 10-day average of daily aquifer levels at the J-17
4 Index Well are all above the same stage trigger level. The
5 authority may adjust the withdrawal percentages for Stage IV in
6 Tables 1 and 2 if necessary in order to comply with Subsection (d)
7 or (e) of this section.

8 (d) Beginning September 1, 2007, the authority may not
9 require the volume of permitted withdrawals to be less than an
10 annualized rate of 340,000 acre-feet, under critical period Stage
11 IV.

12 (e) After January 1, 2013, the authority may not require the
13 volume of permitted withdrawals to be less than an annualized rate
14 of 320,000 acre-feet, under critical period Stage IV unless, after
15 review and consideration of the recommendations provided under
16 Section 1.26A of this article, the authority determines that a
17 different volume of withdrawals is consistent with Sections
18 1.14(a), (f), and (h) of this article in maintaining protection for
19 listed, protected and endangered species associated with the
20 aquifer to the extent required by federal law.

21 (f) Notwithstanding Subsections (d) and (e) of this
22 section, the authority may require further withdrawal reductions
23 before reviewing and considering the recommendations provided
24 under Section 1.26A of this article if the discharge of Comal
25 Springs or San Marcos Springs declines an additional 15 percent
26 after Stage IV withdrawal reductions are imposed under Subsection
27 (b) of this section. This subsection expires on the date that

1 critical period management plan rules adopted by the authority
2 based on the recommendations provided under Section 1.26A of this
3 article take effect.

4 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
5 STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY
6 IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of
7 Texas A&M University, shall cooperatively develop a recovery
8 implementation program through a facilitated, consensus-based
9 process that involves input from the United States Fish and
10 Wildlife Service, other appropriate federal agencies, and all
11 interested stakeholders, including those listed under Subsection
12 (e)(1) of this section. The recovery implementation program shall
13 be developed for the species that are:

14 (1) listed as threatened or endangered species under
15 federal law; and

16 (2) associated with the aquifer.

17 (b) The authority shall enter into a memorandum of agreement
18 with the United States Fish and Wildlife Service, other appropriate
19 federal agencies, the Texas Commission on Environmental Quality,
20 the Parks and Wildlife Department, the Department of Agriculture,
21 the Texas Water Development Board, and other stakeholders in order
22 to develop, not later than December 31, 2007, a program document
23 that may be in the form of a habitat conservation plan used in
24 issuance of an incidental take permit as outlined in Subsection (d)
25 of this section.

26 (c) The authority shall enter into an implementing
27 agreement with the United States Fish and Wildlife Service, other

1 appropriate federal agencies, the Texas Commission on
2 Environmental Quality, the Parks and Wildlife Department, the
3 Department of Agriculture, the Texas Water Development Board, and
4 other stakeholders to develop a program document that may be in the
5 form of a habitat conservation plan used in issuance of an
6 incidental take permit as outlined in Subsection (d) of this
7 section not later than December 31, 2009.

8 (d) The authority, the Texas Commission on Environmental
9 Quality, the Parks and Wildlife Department, the Department of
10 Agriculture, the Texas Water Development Board, and other
11 stakeholders shall jointly prepare a program document that may be
12 in the form of a habitat conservation plan used in issuance of an
13 incidental take permit with the United States secretary of the
14 interior, through the United States Fish and Wildlife Service and
15 other appropriate federal agencies, under Section 4 or Section 6,
16 Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as
17 applicable, based on the program developed under Subsection (a) of
18 this section. The program document shall:

19 (1) provide recommendations for withdrawal
20 adjustments based on a combination of spring discharge rates of the
21 San Marcos and Comal Springs and levels at the J-17 and J-27 wells
22 during critical periods to ensure that federally listed,
23 threatened, and endangered species associated with the Edwards
24 Aquifer will be protected at all times, including throughout a
25 repeat of the drought of record;

26 (2) include provisions to pursue cooperative and grant
27 funding to the extent available from all state, federal, and other

1 sources for eligible programs included in the cooperative agreement
2 under Subsection (c) of this section, including funding for a
3 program director; and

4 (3) be approved and executed by each agency not later
5 than September 1, 2012, and the agreement shall take effect
6 December 31, 2012.

7 (e) Texas A&M University shall assist in the creation of a
8 steering committee to oversee and assist in the development of the
9 cooperative agreement under Subsection (c) of this section. The
10 steering committee must be created not later than September 30,
11 2007. The initial steering committee shall be composed of:

12 (1) a representative of each of the following
13 entities, as appointed by the governing body of that entity:

14 (A) the Edwards Aquifer Authority;

15 (B) the Texas Commission on Environmental
16 Quality;

17 (C) the Parks and Wildlife Department;

18 (D) the Department of Agriculture;

19 (E) the Texas Water Development Board;

20 (F) the San Antonio Water System;

21 (G) the Guadalupe-Blanco River Authority;

22 (H) the San Antonio River Authority;

23 (I) the South Central Texas Water Advisory
24 Committee;

25 (J) the Guadalupe Basin Coalition; and

26 (K) Bexar County; and

27 (2) eight other persons who respectively must be:

1 (A) a representative of a holder of an initial
2 regular permit issued to a retail public utility other than the San
3 Antonio Water System, to be appointed by the authority;

4 (B) a representative of a holder of an initial
5 regular permit issued by the authority for industrial purposes, to
6 be appointed by the authority;

7 (C) a representative of a holder of an industrial
8 surface water right in the Guadalupe River Basin, to be appointed by
9 the Texas Commission on Environmental Quality;

10 (D) a representative of a holder of a municipal
11 surface water right in the Guadalupe River Basin, to be appointed by
12 the Texas Commission on Environmental Quality;

13 (E) a representative of a holder of an initial
14 regular permit issued by the authority for irrigation, to be
15 appointed by the commissioner of agriculture;

16 (F) a representative of an agricultural producer
17 from the Edwards Aquifer region, to be appointed by the
18 commissioner of agriculture;

19 (G) a representative of environmental interests
20 from the Texas Living Waters Project, to be appointed by the
21 governing body of that project; and

22 (H) a representative of recreational interests
23 in the Guadalupe River Basin, to be appointed by the Parks and
24 Wildlife Commission.

25 (e-1) The members of the initial steering committee listed
26 in Subsections (e)(1)(A), (F), (G), (H), and (K) of this section
27 shall each contribute \$500,000 to fund the initial stages of the

1 recovery implementation program process until federal, state, or
2 other funds become available.

3 (f) The steering committee shall work with Texas A&M
4 University to:

5 (1) establish a regular meeting schedule and publish
6 that schedule to encourage public participation; and

7 (2) not later than October 31, 2007, hire a program
8 director to be housed at Texas A&M University.

9 (g) Texas A&M University may accept outside funding to pay
10 the salary and expenses of the program director hired under this
11 section and any expenses associated with the university's
12 participation in the creation of the steering committee or
13 subcommittees established by the steering committee.

14 (h) Where reasonably practicable or as required by law, any
15 meeting of the steering committee, the Edwards Aquifer area expert
16 science subcommittee, or another subcommittee established by the
17 steering committee must be open to the public.

18 (i) The steering committee appointed under this section
19 shall appoint an Edwards Aquifer area expert science subcommittee
20 not later than December 31, 2007. The expert science subcommittee
21 must be composed of an odd number of not fewer than seven or more
22 than 15 members who have technical expertise regarding the Edwards
23 Aquifer system, the threatened and endangered species that inhabit
24 that system, springflows, or the development of withdrawal
25 limitations. The Bureau of Economic Geology of The University of
26 Texas at Austin and the River Systems Institute at Texas State
27 University shall assist the expert science subcommittee. Chapter

1 2110, Government Code, does not apply to the size, composition, or
2 duration of the expert science subcommittee.

3 (j) The Edwards Aquifer area expert science subcommittee
4 shall, among other things, analyze species requirements in relation
5 to spring discharge rates and aquifer levels as a function of
6 recharge and withdrawal levels. Based on that analysis and the
7 elements required to be considered by the authority under Section
8 1.14 of this article, the expert science subcommittee shall,
9 through a collaborative process designed to achieve consensus,
10 develop recommendations for withdrawal reduction levels and stages
11 for critical period management including, if appropriate,
12 establishing separate and possibly different withdrawal reduction
13 levels and stages for critical period management for different
14 pools of the aquifer needed to maintain target spring discharge and
15 aquifer levels. The expert science subcommittee shall submit its
16 recommendations to the steering committee and all other
17 stakeholders involved in the recovery implementation program under
18 this section.

19 (k) The initial recommendations of the Edwards Aquifer area
20 expert science subcommittee must be completed and submitted to the
21 steering committee and other stakeholders not later than December
22 31, 2008, and should include an evaluation:

23 (1) of the option of designating a separate San Marcos
24 pool, of how such a designation would affect existing pools, and of
25 the need for an additional well to measure the San Marcos pool, if
26 designated;

27 (2) of the necessity to maintain minimum springflows,

1 including a specific review of the necessity to maintain a flow to
2 protect the federally threatened and endangered species; and

3 (3) as to whether adjustments in the trigger levels
4 for the San Marcos Springs flow for the San Antonio pool should be
5 made.

6 (1) In developing its recommendations, the Edwards Aquifer
7 area expert science subcommittee shall:

8 (1) consider all reasonably available science,
9 including any Edwards Aquifer-specific studies, and base its
10 recommendations solely on the best science available; and

11 (2) operate on a consensus basis to the maximum extent
12 possible.

13 (m) After development of the cooperative agreement, the
14 steering committee, with the assistance of the Edwards Aquifer area
15 expert science subcommittee and with input from the other recovery
16 implementation program stakeholders, shall prepare and submit
17 recommendations to the authority. The recommendations must:

18 (1) include a review of the critical period management
19 plan, to occur at least once every five years;

20 (2) include specific monitoring, studies, and
21 activities that take into account changed conditions and
22 information that more accurately reflects the importance of
23 critical period management; and

24 (3) establish a schedule for continuing the validation
25 or refinement of the critical period management plan adopted by the
26 authority and the strategies to achieve the program and cooperative
27 agreement described by this section.

1 (n) In this subsection, "recharge facility" means a dam,
2 reservoir, or other method of recharge project and associated
3 facilities, structures, or works but does not include facilities
4 designed to recirculate water at Comal or San Marcos Springs. The
5 steering committee shall establish a recharge facility feasibility
6 subcommittee to:

7 (1) assess the need for the authority or any other
8 entity to own, finance, design, construct, operate, or maintain
9 recharge facilities;

10 (2) formulate plans to allow the authority or any
11 other entity to own, finance, design, construct, operate, or
12 maintain recharge facilities;

13 (3) maximize available federal funding for the
14 authority or any other entity to own, finance, design, construct,
15 operate, or maintain recharge facilities; and

16 (4) evaluate the financing of recharge facilities,
17 including the use of management fees or special fees to be used for
18 purchasing or operating the facilities.

19 (o) The steering committee may establish other
20 subcommittees as necessary, including a hydrology subcommittee, a
21 community outreach and education subcommittee, and a water supply
22 subcommittee.

23 (p) On execution of the memorandum of agreement described by
24 Subsection (b) of this section, the steering committee described by
25 Subsection (e) of this section may, by majority vote of its members,
26 vote to add members to the steering committee, change the makeup of
27 the committee, or dissolve the committee. If the steering

1 committee is dissolved, the program director hired under Subsection
2 (f) of this section shall assume the duties of the steering
3 committee.

4 (g) The authority shall provide an annual report to the
5 governor, lieutenant governor, and speaker of the house of
6 representatives not later than January 1 of each year that details:

7 (1) the status of the recovery implementation program
8 development process;

9 (2) the likelihood of completion of the recovery
10 implementation program and the cooperative agreement described by
11 Subsection (c) of this section;

12 (3) the extent to which the recommendations of the
13 Edwards Aquifer area expert science subcommittee are being
14 considered and implemented by the authority;

15 (4) any other actions that need to be taken in response
16 to each recommendation;

17 (5) reasons explaining why any recommendation
18 received has not been implemented; and

19 (6) any other issues the authority considers of value
20 for the efficient and effective completion of the program and the
21 cooperative agreement under this section.

22 SECTION 8. Subsections (b), (h), and (i), Section 1.29,
23 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
24 are amended to read as follows:

25 (b) The authority shall assess equitable aquifer management
26 fees based on aquifer use under the water management plan to finance
27 its administrative expenses and programs authorized under this

1 article. Each water district governed by Chapter 36 [~~52~~], Water
2 Code, that is within the authority's boundaries may contract with
3 the authority to pay expenses of the authority through taxes in lieu
4 of user fees to be paid by water users in the district. The contract
5 must provide that the district will pay an amount equal to the
6 amount that the water users in the district would have paid through
7 user fees. The authority may not collect a total amount of fees and
8 taxes that is more than is reasonably necessary for the
9 administration of the authority.

10 (h) Fees assessed by the authority may not be used to fund
11 the cost of reducing withdrawals or retiring permits or of
12 judgments or claims related to withdrawals or permit retirements
13 ~~[Special fees collected under Subsection (c) or (d) of this section~~
14 ~~may not be used to finance a surface water supply reservoir~~
15 ~~project].~~

16 (i) The authority and other stakeholders, including state
17 agencies, listed under Section 1.26A of this article shall provide
18 money as necessary~~[, but not to exceed five percent of the money~~
19 ~~collected under Subsection (d) of this section,~~] to finance the
20 activities of the steering committee and any subcommittees
21 appointed by the steering committee and the program director of the
22 recovery implementation program under Section 1.26A of this
23 article. The authority shall provide, as necessary, up to \$75,000
24 annually, adjusted for changes in the consumer price index, to
25 finance the South Central Texas Water Advisory Committee's
26 administrative expenses and programs authorized under this
27 article.

1 SECTION 9. Section 1.34, Chapter 626, Acts of the 73rd
2 Legislature, Regular Session, 1993, is amended by amending
3 Subsection (c) and adding Subsections (d), (e), (f), and (g) to read
4 as follows:

5 (c) Subject to the limitations provided by Subsections (d),
6 (e), (f), and (g) of this section, a [A] permit holder may lease,
7 sell, or otherwise transfer ownership of permitted water rights.

8 (d) The [~~but a~~] holder of an initial regular [a] permit for
9 irrigation use may [~~not~~] lease, sell, or otherwise transfer
10 ownership of not more than 50 percent of the irrigation rights
11 initially permitted. Except as provided by Subsections (e), (f),
12 and (g) of this section, the permit holder's [~~The user's~~] remaining
13 irrigation water rights must be used in accordance with the
14 original initial regular permit and must pass with transfer of the
15 irrigated land. Irrigation rights initially permitted based on
16 land irrigated from the applicant's well that were not owned by the
17 applicant are appurtenant to land owned by the applicant and
18 irrigated by the applicant's well.

19 (e) The place of use of the remaining irrigation water
20 rights under Subsection (d) of this section may be temporarily
21 transferred to another place of use owned or leased by the permit
22 holder. If the irrigated land to which the water rights are
23 appurtenant is sold or the ownership of the land is otherwise
24 transferred, the transfer of the irrigation water rights is
25 immediately voided by operation of law and the rights revert back by
26 operation of law to the irrigated land.

27 (f) The place of use of the remaining irrigation water

1 rights under Subsection (d) of this section may be temporarily
2 transferred for irrigation purposes for a term not to exceed 10
3 years to another place of use owned or leased by a third party. If
4 the irrigated land to which the water rights are appurtenant is sold
5 or the ownership of the land is otherwise transferred, the person to
6 whom the ownership of the land is transferred takes the land subject
7 to that temporary transfer of irrigation water rights.

8 (g) If the irrigated land identified as the place of use in
9 the initial regular permit originally issued for irrigation
10 purposes is developed as evidenced by actual physical alteration of
11 the land such that it is no longer reasonably capable of being
12 irrigated, the permit holder may apply to the authority to convert
13 the remaining irrigation water rights under Subsection (d) of this
14 section so as to be transferable.

15 SECTION 10. Subsection (a), Section 1.45, Chapter 626, Acts
16 of the 73rd Legislature, Regular Session, 1993, is amended to read
17 as follows:

18 (a) The authority may own, finance, design, construct,
19 [build or] operate, and maintain recharge dams and associated
20 facilities, structures, or works in the contributing or recharge
21 area of the aquifer if the recharge is made to increase the yield of
22 the aquifer, [and] the recharge project does not impair senior
23 water rights or vested riparian rights, and the recharge project is
24 not designed to recirculate water at Comal or San Marcos Springs.

25 SECTION 11. Subsections (b) and (d), Section 1.14, Section
26 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626,
27 Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

1 SECTION 12. (a) Before January 1, 2012, a suit may not be
2 instituted in a state court contesting:

3 (1) the validity or implementation of this Act; or

4 (2) the groundwater withdrawal amounts recognized in
5 Section 3 of this Act.

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

10 (c) A suit against the Edwards Aquifer Authority may not be
11 instituted or maintained by a person who owns, holds, or uses a
12 surface water right and claims injury or potential injury to that
13 right for any reason, including any actions taken by the Edwards
14 Aquifer Authority to implement or enforce Article 1, Chapter 626,
15 Acts of the 73rd Legislature, Regular Session, 1993, as amended.
16 This section does not apply to suits brought pursuant to Section
17 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session,
18 1993.

19 SECTION 13. The change in law made by this Act applies only
20 to a cause of action filed on or after the effective date of this
21 Act. A cause of action that is filed before the effective date of
22 this Act is governed by the law in effect immediately before the
23 effective date of this Act, and that law is continued in effect for
24 that purpose.

25 SECTION 14. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

S.B. No. 1341

1 If this Act does not receive the vote necessary for immediate
2 effect, this Act takes effect September 1, 2007.