

1-1 By: Hegar S.B. No. 1341
1-2 (In the Senate - Filed March 7, 2007; March 19, 2007, read
1-3 first time and referred to Committee on Natural Resources;
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1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1341 By: Hegar

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

1-10 relating to the management of groundwater in the area regulated by
1-11 the Edwards Aquifer Authority and to the operations and oversight
1-12 of the Edwards Aquifer Authority.

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

1-14 SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts
1-15 of the 73rd Legislature, Regular Session, 1993, is amended to read
1-16 as follows:

1-17 (f) The authority may own, finance, design, [contract with a
1-18 person who uses water from the aquifer for the authority or that
1-19 person to] construct, operate, or [own, finance, and] maintain
1-20 recharge [water supply] facilities or contract with a person who
1-21 uses water from the aquifer for the authority or that person to own,
1-22 finance, design, construct, operate, or maintain recharge
1-23 facilities. [Management fees or special fees may not be used for
1-24 purchasing or operating these facilities.] For the purpose of this
1-25 subsection, "recharge [water supply] facility" means [includes] a
1-26 dam, reservoir, [treatment facility, transmission facility,] or
1-27 other method of recharge project and associated facilities,
1-28 structures, or works but does not include a facility to recirculate
1-29 water at Comal or San Marcos Springs.

1-30 SECTION 2. Subsections (a), (c), (e), (f), and (h), Section
1-31 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,
1-32 1993, are amended to read as follows:

1-33 (a) Authorizations to withdraw water from the aquifer and
1-34 all authorizations and rights to make a withdrawal under this Act
1-35 shall be limited in accordance with this section to:

1-36 (1) protect the water quality of the aquifer;
1-37 (2) protect the water quality of the surface streams
1-38 to which the aquifer provides springflow;
1-39 (3) achieve water conservation;
1-40 (4) maximize the beneficial use of water available for
1-41 withdrawal from the aquifer;
1-42 (5) recognize the extent of the hydro-geologic
1-43 connection and interaction between surface water and groundwater;
1-44 (6) protect aquatic and wildlife habitat;
1-45 (7) ~~(6)~~ protect species that are designated as
1-46 threatened or endangered under applicable federal or state law; and
1-47 (8) ~~(7)~~ provide for instream uses, bays, and
1-48 estuaries.

1-49 (c) Except as provided by Subsections ~~(d)~~ (f) ~~(g)~~ and (h)
1-50 of this section and Section 1.26 of this article, for the period
1-51 beginning January 1, 2008, the amount of permitted withdrawals from
1-52 the aquifer may not:

1-53 (1) be less than 572,000 acre-feet; or
1-54 (2) exceed the sum of all regular permits issued or for
1-55 which an application was filed and issuance was pending action by
1-56 the authority as of January 1, 2005 [400,000 acre-feet of water for
1-57 each calendar year].

1-58 (e) The authority may not allow withdrawals from the aquifer
1-59 through wells drilled after June 1, 1993, except for replacement,
1-60 test, or exempt wells or to the extent that the authority approves
1-61 an amendment to an initial regular permit to authorize a change in
1-62 the point of withdrawal under that permit [additional water as
1-63 provided by Subsection (d) and then on an interruptible basis].

2-1 (f) If the level of the aquifer is equal to or greater than
 2-2 660 [~~650~~] feet above mean sea level as measured at Well J-17, the
 2-3 authority may authorize withdrawal from the San Antonio pool, on an
 2-4 uninterrupted basis, of permitted amounts. If the level of the
 2-5 aquifer is equal to or greater than 845 feet at Well J-27, the
 2-6 authority may authorize withdrawal from the Uvalde pool, on an
 2-7 uninterrupted basis, of permitted amounts. [~~The authority shall~~
 2-8 ~~limit the additional withdrawals to ensure that springflows are not~~
 2-9 ~~affected during critical drought conditions.~~]

2-10 (h) To accomplish the purposes of this article, [~~by June 1,~~
 2-11 ~~1994,~~] the authority, through a program, shall implement and
 2-12 enforce water management practices, procedures, and methods to
 2-13 ensure that, not later than December 31, 2012, the continuous
 2-14 minimum springflows of the Comal Springs and the San Marcos Springs
 2-15 are maintained to protect endangered and threatened species to the
 2-16 extent required by federal law and to achieve other purposes
 2-17 provided by Subsection (a) of this section and Section 1.26 of this
 2-18 article. The authority from time to time as appropriate may revise
 2-19 the practices, procedures, and methods. To meet this requirement,
 2-20 the authority shall require:

2-21 (1) phased adjustments to [~~reductions in~~] the amount
 2-22 of water that may be used or withdrawn by existing users or
 2-23 categories of other users, including adjustments in accordance with
 2-24 the authority's critical period management plan established under
 2-25 Section 1.26 of this article; or

2-26 (2) implementation of alternative management
 2-27 practices, procedures, and methods.

2-28 SECTION 3. Subsection (g), Section 1.16, Chapter 626, Acts
 2-29 of the 73rd Legislature, Regular Session, 1993, is amended to read
 2-30 as follows:

2-31 (g) The authority shall issue an initial regular permit
 2-32 without a term, and an initial regular permit remains in effect
 2-33 until the permit is abandoned or [~~7~~] cancelled[~~, or retired~~].

2-34 SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts
 2-35 of the 73rd Legislature, Regular Session, 1993, is amended to read
 2-36 as follows:

2-37 (b) Withdrawal of water under a term permit must be
 2-38 consistent with the authority's critical period management plan
 2-39 established under Section 1.26 of this article. A holder of a term
 2-40 permit may not withdraw water from the San Antonio pool of the
 2-41 aquifer unless:

2-42 (1) the level of the aquifer is higher than 675 [~~665~~]
 2-43 feet above sea level, as measured at Well J-17;

2-44 (2) the flow at Comal Springs as determined by Section
 2-45 1.26(c) of this article is greater than 350 cubic feet per second;
 2-46 and

2-47 (3) the flow at San Marcos Springs as determined by
 2-48 Section 1.26(c) of this article is greater than 200 cubic feet per
 2-49 second.

2-50 SECTION 5. Subsection (a), Section 1.22, Chapter 626, Acts
 2-51 of the 73rd Legislature, Regular Session, 1993, is amended to read
 2-52 as follows:

2-53 (a) The authority may acquire permitted rights to use water
 2-54 from the aquifer for the purposes of:

2-55 (1) holding those rights in trust for sale or transfer
 2-56 of the water or the rights to persons within the authority's
 2-57 jurisdiction who may use water from the aquifer;

2-58 (2) holding those rights in trust as a means of
 2-59 managing overall demand on the aquifer; or

2-60 (3) holding those rights for resale [~~or retirement as~~
 2-61 ~~a means of complying with pumping reduction requirements under this~~
 2-62 ~~article, or~~

2-63 [~~(4) retiring those rights, including those rights~~
 2-64 ~~already permitted].~~

2-65 SECTION 6. Article 1, Chapter 626, Acts of the 73rd
 2-66 Legislature, Regular Session, 1993, is amended by amending Section
 2-67 1.26 and adding Section 1.26A to read as follows:

2-68 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
 2-69 review of the recommendations received in the program document, as

3-1 prescribed by Section 1.26A of this article, the [The] authority by
 3-2 rule shall adopt [~~prepare and coordinate implementation of~~] a [plan
 3-3 ~~for~~] critical period management plan in a manner consistent with
 3-4 Sections 1.14(a), (f), and (h) of this article [~~on or before~~
 3-5 September 1, 1995]. On adoption of the critical period management
 3-6 plan, the authority shall provide a written report to the governor,
 3-7 lieutenant governor, and speaker of the house of representatives
 3-8 describing the actions taken in response to each recommendation
 3-9 and, for each recommendation not implemented, the reason it was not
 3-10 implemented. The plan [~~mechanisms~~] must:

3-11 (1) distinguish between discretionary use and
 3-12 nondiscretionary use;

3-13 (2) require reductions of all discretionary use to the
 3-14 maximum extent feasible;

3-15 (3) require utility pricing, to the maximum extent
 3-16 feasible, to limit discretionary use by the customers of water
 3-17 utilities; and

3-18 (4) require reduction of nondiscretionary use by
 3-19 permitted or contractual users, to the extent further reductions
 3-20 are necessary, in the reverse order of the following water use
 3-21 preferences:

- 3-22 (A) municipal, domestic, and livestock;
- 3-23 (B) industrial and crop irrigation;
- 3-24 (C) residential landscape irrigation;
- 3-25 (D) recreational and pleasure; and
- 3-26 (E) other uses that are authorized by law.

3-27 (b) In this section, "MSL" means the elevation above mean
 3-28 sea level, measured in feet, of the surface of the water in a well,
 3-29 and "CFS" means cubic feet per second. Not later than January 1,
 3-30 2008, the authority shall, by rule, adopt and enforce a critical
 3-31 period management plan with withdrawal reduction percentages in the
 3-32 amounts indicated in Tables 1 and 2 whether according to the index
 3-33 well levels or the Comal or San Marcos Springs flow as applicable,
 3-34 for a total in critical period Stage IV of 40 percent of the
 3-35 permitted withdrawals under Table 1 and 35 percent under Table 2:

3-36 TABLE 1
 3-37 CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
 3-38 FOR THE SAN ANTONIO POOL

3-39 <u>Comal</u>	3-40 <u>San Marcos</u>	3-41 <u>Index Well</u>	3-42 <u>Critical</u>	3-43 <u>Withdrawal</u>
3-44 <u>Springs Flow</u>	3-45 <u>Springs Flow</u>	3-46 <u>J-17 Level</u>	3-47 <u>Period Stage</u>	3-48 <u>Reduction-</u>
3-49 <u>CFS</u>	3-50 <u>CFS</u>	3-51 <u>MSL</u>	3-52	3-53 <u>San Antonio</u>
				3-54 <u>Pool</u>
3-55 <u><225</u>	3-56 <u><96</u>	3-57 <u><660</u>	3-58 <u>I</u>	3-59 <u>20%</u>
3-60 <u><200</u>	3-61 <u><80</u>	3-62 <u><650</u>	3-63 <u>II</u>	3-64 <u>30%</u>
3-65 <u><150</u>	3-66 <u>N/A</u>	3-67 <u><640</u>	3-68 <u>III</u>	3-69 <u>35%</u>
3-70 <u><100</u>	3-71 <u>N/A</u>	3-72 <u><630</u>	3-73 <u>IV</u>	3-74 <u>40%</u>

3-75 TABLE 2
 3-76 CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
 3-77 FOR THE UVALDE POOL

3-78 <u>Withdrawal</u>	3-79 <u>Index Well J-27</u>	3-80 <u>Critical Period</u>
3-81 <u>Reduction-Uvalde</u>	3-82 <u>Level MSL</u>	3-83 <u>Stage</u>
3-84 <u>Pool</u>		
3-85 <u>N/A</u>	3-86 <u>---</u>	3-87 <u>I</u>
3-88 <u>5%</u>	3-89 <u><850</u>	3-90 <u>II</u>
3-91 <u>20%</u>	3-92 <u><845</u>	3-93 <u>III</u>
3-94 <u>35%</u>	3-95 <u><842</u>	3-96 <u>IV</u>

3-97 (c) A change to a critical period stage with higher
 3-98 withdrawal reduction percentages is triggered if the 10-day average
 3-99 of daily springflows at the Comal Springs or the San Marcos Springs
 3-100 or the 10-day average of daily aquifer levels at the J-17 Index Well
 3-101 drops below the lowest number of any of the trigger levels indicated
 3-102 in Table 1. A change to a critical period stage with lower
 3-103 withdrawal reduction percentages is triggered only when the 10-day
 3-104 average of daily springflows at the Comal Springs and the San Marcos
 3-105 Springs and the 10-day average of daily aquifer levels at the J-17
 3-106 Index Well are all above the same stage trigger level. The
 3-107 authority may adjust the withdrawal percentages for Stage IV in
 3-108 Tables 1 and 2 if necessary in order to comply with Subsection (d)
 3-109 or (e) of this section.

4-1 (d) Beginning September 1, 2007, the authority may not allow
 4-2 the volume of permitted withdrawals to be less than an annualized
 4-3 rate of 340,000 acre-feet, under critical period Stage IV.

4-4 (e) After January 1, 2013, the authority may not allow the
 4-5 volume of permitted withdrawals to be less than an annualized rate
 4-6 of 320,000 acre-feet, under critical period Stage IV unless, after
 4-7 review and consideration of the recommendations provided under
 4-8 Section 1.26A of this article, the authority determines that a
 4-9 different volume of withdrawals is consistent with Sections
 4-10 1.14(a), (f), and (h) of this article in maintaining protection for
 4-11 listed, protected, and endangered species associated with the
 4-12 aquifer to the extent required by federal law.

4-13 (f) Notwithstanding Subsections (d) and (e) of this
 4-14 section, the authority may require further withdrawal reductions
 4-15 before reviewing and considering the recommendations provided
 4-16 under Section 1.26A of this article if the discharge of Comal
 4-17 Springs or San Marcos Springs declines an additional 15 percent
 4-18 after Stage IV withdrawal reductions are imposed under Subsection
 4-19 (b) of this section. This subsection expires on the date that
 4-20 critical period management plan rules adopted by the authority
 4-21 based on the recommendations provided under Section 1.26A of this
 4-22 article take effect.

4-23 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
 4-24 STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY
 4-25 IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of
 4-26 Texas A&M University, shall develop a recovery implementation
 4-27 program through a facilitated, consensus-based process that
 4-28 involves input from the United States Fish and Wildlife Service,
 4-29 other appropriate federal agencies, and all interested
 4-30 stakeholders, including those listed under Subsection (e)(1) of
 4-31 this section. The recovery implementation program shall be
 4-32 developed for the species that are:

4-33 (1) listed as threatened or endangered species under
 4-34 federal law; and

4-35 (2) associated with the aquifer.

4-36 (b) The authority shall use its best efforts to enter into a
 4-37 memorandum of agreement with the United States Fish and Wildlife
 4-38 Service, other appropriate federal agencies, the Texas Commission
 4-39 on Environmental Quality, the Parks and Wildlife Department, the
 4-40 Department of Agriculture, the Texas Water Development Board, and
 4-41 other stakeholders in order to develop, not later than December 31,
 4-42 2007, a program document that may be in the form of a habitat
 4-43 conservation plan used in issuance of an incidental take permit as
 4-44 outlined in Subsection (d) of this section.

4-45 (c) The authority shall use its best efforts to enter into
 4-46 an implementing agreement with the United States Fish and Wildlife
 4-47 Service, other appropriate federal agencies, the Texas Commission
 4-48 on Environmental Quality, the Parks and Wildlife Department, the
 4-49 Department of Agriculture, the Texas Water Development Board, and
 4-50 other stakeholders to develop a program document as outlined in
 4-51 Subsection (d) of this section not later than December 31, 2009.

4-52 (d) The authority, the Texas Commission on Environmental
 4-53 Quality, the Parks and Wildlife Department, the Department of
 4-54 Agriculture, the Texas Water Development Board, and other
 4-55 stakeholders shall jointly prepare a program document that may be
 4-56 in the form of a habitat conservation plan used in issuance of an
 4-57 incidental take permit with the United States secretary of the
 4-58 interior, through the United States Fish and Wildlife Service and
 4-59 other appropriate federal agencies, under Section 4 or Section 6,
 4-60 Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as
 4-61 applicable, based on the program developed under Subsection (a) of
 4-62 this section. The program document shall:

4-63 (1) provide recommendations for withdrawal
 4-64 adjustments based on a combination of spring discharge rates of the
 4-65 San Marcos and Comal Springs and levels at the J-17 and J-27 wells
 4-66 during critical periods to ensure that federally listed,
 4-67 threatened, and endangered species associated with the Edwards
 4-68 Aquifer will be protected at all times, including throughout a
 4-69 repeat of the drought of record;

5-1 (2) include provisions to pursue cooperative and grant
5-2 funding to the extent available from all state, federal, and other
5-3 sources for eligible programs included in the cooperative agreement
5-4 under Subsection (c) of this section, including funding for a
5-5 program director; and

5-6 (3) be approved and executed by each agency not later
5-7 than September 1, 2012, and the agreement shall take effect
5-8 December 31, 2012.

5-9 (e) Texas A&M University shall assist in the creation of a
5-10 steering committee to oversee and assist in the development of the
5-11 cooperative agreement under Subsection (c) of this section. The
5-12 steering committee must be created not later than September 30,
5-13 2007. The initial steering committee shall be composed of:

5-14 (1) a representative of each of the following
5-15 entities, as appointed by the governing body of that entity:

5-16 (A) the Edwards Aquifer Authority;
5-17 (B) the Texas Commission on Environmental
5-18 Quality;

5-19 (C) the Parks and Wildlife Department;
5-20 (D) the Department of Agriculture;
5-21 (E) the Texas Water Development Board;
5-22 (F) the San Antonio Water System;
5-23 (G) the Guadalupe-Blanco River Authority;
5-24 (H) the San Antonio River Authority;
5-25 (I) the South Central Texas Water Advisory

5-26 Committee;
5-27 (J) the Guadalupe Basin Coalition; and
5-28 (K) Bexar County; and

5-29 (2) eight other persons who respectively must be:

5-30 (A) a representative of a holder of an initial
5-31 regular permit issued to a retail public utility other than the San
5-32 Antonio Water System, to be appointed by the authority;

5-33 (B) a representative of a holder of an initial
5-34 regular permit issued by the authority for industrial purposes, to
5-35 be appointed by the authority;

5-36 (C) a representative of a holder of an industrial
5-37 surface water right in the Guadalupe River Basin, to be appointed by
5-38 the Texas Commission on Environmental Quality;

5-39 (D) a representative of a holder of a municipal
5-40 surface water right in the Guadalupe River Basin, to be appointed by
5-41 the Texas Commission on Environmental Quality;

5-42 (E) a representative of a holder of an initial
5-43 regular permit issued by the authority for irrigation, to be
5-44 appointed by the commissioner of agriculture;

5-45 (F) a representative of an agricultural producer
5-46 from the Edwards Aquifer region, to be appointed by the
5-47 commissioner of agriculture;

5-48 (G) a representative of environmental interests
5-49 from the Texas Living Waters Project, to be appointed by the
5-50 governing body of that project; and

5-51 (H) a representative of recreational interests
5-52 in the Guadalupe River Basin, to be appointed by the Parks and
5-53 Wildlife Commission.

5-54 (f) The steering committee shall work with Texas A&M
5-55 University to:

5-56 (1) establish a regular meeting schedule and publish
5-57 that schedule to encourage public participation; and

5-58 (2) not later than October 31, 2007, hire a program
5-59 director to be housed at Texas A&M University.

5-60 (g) Texas A&M University may accept outside funding to pay
5-61 the salary and expenses of the program director hired under this
5-62 section and any expenses associated with the university's
5-63 participation in the creation of the steering committee or
5-64 subcommittees established by the steering committee.

5-65 (h) Where reasonably practicable or as required by law, any
5-66 meeting of the steering committee, the Edwards Aquifer area expert
5-67 science subcommittee, or another subcommittee established by the
5-68 steering committee must be open to the public.

5-69 (i) The steering committee appointed under this section

6-1 shall appoint an Edwards Aquifer area expert science subcommittee
 6-2 not later than December 31, 2007. The expert science subcommittee
 6-3 must be composed of an odd number of not fewer than seven or more
 6-4 than 15 members who have technical expertise regarding the Edwards
 6-5 Aquifer system, the threatened and endangered species that inhabit
 6-6 that system, springflows, or the development of withdrawal
 6-7 limitations. The Bureau of Economic Geology of The University of
 6-8 Texas at Austin and the River Systems Institute at Texas State
 6-9 University shall assist the expert science subcommittee. Chapter
 6-10 2110, Government Code, does not apply to the size, composition, or
 6-11 duration of the expert science subcommittee.

6-12 (j) The Edwards Aquifer area expert science subcommittee
 6-13 shall, among other things, analyze species requirements in relation
 6-14 to spring discharge rates and aquifer levels as a function of
 6-15 recharge and withdrawal levels. Based on that analysis and the
 6-16 elements required to be considered by the authority under Section
 6-17 1.14 of this article, the expert science subcommittee shall,
 6-18 through a collaborative process designed to achieve consensus,
 6-19 develop recommendations for withdrawal reduction levels and stages
 6-20 for critical period management including, if appropriate,
 6-21 establishing separate and possibly different withdrawal reduction
 6-22 levels and stages for critical period management for different
 6-23 pools of the aquifer needed to maintain target spring discharge and
 6-24 aquifer levels. The expert science subcommittee shall submit its
 6-25 recommendations to the steering committee and all other
 6-26 stakeholders involved in the recovery implementation program under
 6-27 this section.

6-28 (k) The initial recommendations of the Edwards Aquifer area
 6-29 expert science subcommittee must be completed and submitted to the
 6-30 steering committee and other stakeholders not later than December
 6-31 31, 2008, and:

6-32 (1) must include an evaluation of the option of
 6-33 designating a separate San Marcos pool and how such a designation
 6-34 would affect existing pools; and

6-35 (2) should include an evaluation as to whether
 6-36 adjustments in the trigger levels for the San Marcos Springs flow
 6-37 for the San Antonio pool should be made.

6-38 (l) In developing its recommendations, the Edwards Aquifer
 6-39 area expert science subcommittee shall:

6-40 (1) consider all reasonably available science,
 6-41 including any Edwards Aquifer-specific studies, and base its
 6-42 recommendations solely on the best science available; and

6-43 (2) operate on a consensus basis to the maximum extent
 6-44 possible.

6-45 (m) After development of the cooperative agreement, the
 6-46 steering committee, with the assistance of the Edwards Aquifer area
 6-47 expert science subcommittee and with input from the other recovery
 6-48 implementation program stakeholders, shall prepare and submit
 6-49 recommendations to the authority. The recommendations must:

6-50 (1) include a review of the critical period management
 6-51 plan, to occur at least once every five years;

6-52 (2) include specific monitoring, studies, and
 6-53 activities that take into account changed conditions and
 6-54 information that more accurately reflects the importance of
 6-55 critical period management; and

6-56 (3) establish a schedule for continuing the validation
 6-57 or refinement of the critical period management plan adopted by the
 6-58 authority and the strategies to achieve the program and cooperative
 6-59 agreement described by this section.

6-60 (n) In this subsection, "recharge facility" means a dam,
 6-61 reservoir, or other method of recharge project and associated
 6-62 facilities, structures, or works but does not include facilities
 6-63 designed to recirculate water at Comal or San Marcos Springs. The
 6-64 steering committee shall establish a recharge facility feasibility
 6-65 subcommittee to:

6-66 (1) assess the need for the authority or any other
 6-67 entity to own, finance, design, construct, operate, or maintain
 6-68 recharge facilities;

6-69 (2) formulate plans to allow the authority or any

7-1 other entity to own, finance, design, construct, operate, or
 7-2 maintain recharge facilities;

7-3 (3) maximize available federal funding for the
 7-4 authority or any other entity to own, finance, design, construct,
 7-5 operate, or maintain recharge facilities; and

7-6 (4) evaluate the financing of recharge facilities,
 7-7 including the use of management fees or special fees to be used for
 7-8 purchasing or operating the facilities.

7-9 (o) The steering committee may establish other
 7-10 subcommittees as necessary, including a hydrology subcommittee, a
 7-11 community outreach and education subcommittee, and a water supply
 7-12 subcommittee.

7-13 (p) On execution of the memorandum of agreement described by
 7-14 Subsection (b) of this section, the steering committee described by
 7-15 Subsection (e) of this section may, by majority vote of its members,
 7-16 vote to add members to the steering committee, change the makeup of
 7-17 the committee, or dissolve the committee. If the steering
 7-18 committee is dissolved, the program director hired under Subsection
 7-19 (f) of this section shall assume the duties of the steering
 7-20 committee.

7-21 (q) The authority shall provide an annual report to the
 7-22 governor, lieutenant governor, and speaker of the house of
 7-23 representatives not later than January 1 of each year that details:

7-24 (1) the status of the recovery implementation program
 7-25 development process;

7-26 (2) the likelihood of completion of the recovery
 7-27 implementation program and the cooperative agreement described by
 7-28 Subsection (c) of this section;

7-29 (3) the extent to which the recommendations of the
 7-30 Edwards Aquifer area expert science subcommittee are being
 7-31 considered and implemented by the authority;

7-32 (4) any other actions that need to be taken in response
 7-33 to each recommendation;

7-34 (5) reasons explaining why any recommendation
 7-35 received has not been implemented; and

7-36 (6) any other issues the authority considers of value
 7-37 for the efficient and effective completion of the program and the
 7-38 cooperative agreement under this section.

7-39 SECTION 7. Subsections (b), (h), and (i), Section 1.29,
 7-40 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
 7-41 are amended to read as follows:

7-42 (b) The authority shall assess equitable aquifer management
 7-43 fees based on aquifer use under the water management plan to finance
 7-44 its administrative expenses and programs authorized under this
 7-45 article. Each water district governed by Chapter 36 [52], Water
 7-46 Code, that is within the authority's boundaries may contract with
 7-47 the authority to pay expenses of the authority through taxes in lieu
 7-48 of user fees to be paid by water users in the district. The contract
 7-49 must provide that the district will pay an amount equal to the
 7-50 amount that the water users in the district would have paid through
 7-51 user fees. The authority may not collect a total amount of fees and
 7-52 taxes that is more than is reasonably necessary for the
 7-53 administration of the authority.

7-54 (h) Fees assessed by the authority may not be used to fund
 7-55 the cost of reducing withdrawals or retiring permits or of
 7-56 judgments or claims related to withdrawals or permit retirements
 7-57 [Special fees collected under Subsection (c) or (d) of this section
 7-58 may not be used to finance a surface water supply reservoir
 7-59 project].

7-60 (i) The authority and other stakeholders, including state
 7-61 agencies, listed under Section 1.26A of this article shall provide
 7-62 money as necessary[~~, but not to exceed five percent of the money~~
 7-63 ~~collected under Subsection (d) of this section,~~] to finance the
 7-64 activities of the steering committee and any subcommittees
 7-65 appointed by the steering committee and the program director of the
 7-66 recovery implementation program under Section 1.26A of this
 7-67 article. The authority shall provide, as necessary, up to \$75,000
 7-68 annually, adjusted for changes in the consumer price index, to
 7-69 finance the South Central Texas Water Advisory Committee's

8-1 administrative expenses and programs authorized under this
8-2 article.

8-3 SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts
8-4 of the 73rd Legislature, Regular Session, 1993, is amended to read
8-5 as follows:

8-6 (a) The authority may own, finance, design, construct,
8-7 [build or] operate, and maintain recharge dams and associated
8-8 facilities, structures, or works in the contributing or recharge
8-9 area of the aquifer if the recharge is made to increase the yield of
8-10 the aquifer, [and] the recharge project does not impair senior
8-11 water rights or vested riparian rights, and the recharge project is
8-12 not designed to recirculate water at Comal or San Marcos Springs.

8-13 SECTION 9. Subsections (b) and (d), Section 1.14, Section
8-14 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626,
8-15 Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

8-16 SECTION 10. (a) Before January 1, 2012, a suit may not be
8-17 instituted in a state court contesting:

- 8-18 (1) the validity or implementation of this Act; or
- 8-19 (2) the groundwater withdrawal amounts recognized in
8-20 Section 1 of this Act.

8-21 (b) If applicable, a party that files a suit in any court
8-22 shall be automatically removed from the steering committee
8-23 established under Section 1.26A, Chapter 626, Acts of the 73rd
8-24 Legislature, Regular Session, 1993, as added by this Act.

8-25 (c) A suit against the Edwards Aquifer Authority may not be
8-26 instituted or maintained by a person who owns, holds, or uses a
8-27 surface water right and claims injury or potential injury to that
8-28 right for any reason, including any actions taken by the Edwards
8-29 Aquifer Authority to implement or enforce Article 1, Chapter 626,
8-30 Acts of the 73rd Legislature, Regular Session, 1993, as amended.

8-31 SECTION 11. The change in law made by this Act applies only
8-32 to a cause of action filed on or after the effective date of this
8-33 Act. A cause of action that is filed before the effective date of
8-34 this Act is governed by the law in effect immediately before the
8-35 effective date of this Act, and that law is continued in effect for
8-36 that purpose.

8-37 SECTION 12. This Act takes effect immediately if it
8-38 receives a vote of two-thirds of all the members elected to each
8-39 house, as provided by Section 39, Article III, Texas Constitution.
8-40 If this Act does not receive the vote necessary for immediate
8-41 effect, this Act takes effect September 1, 2007.

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