

By: Averitt

S.B. No. 2459

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the study and assessment of the transport of
3 groundwater in the area regulated by the Edwards Aquifer Authority.

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

5 SECTION 1. STATEMENT OF PURPOSE AND LEGISLATIVE FINDINGS.

6 In order to establish a study group to review and assess the
7 groundwater management strategy of transporting groundwater from
8 Uvalde and Medina counties and to evaluate the impacts of section
9 1.28 of article 1 of the Edwards Aquifer Authority Act on
10 groundwater management opportunities for the Edwards Aquifer, the
11 legislature finds that:

12 (a) the Edwards Aquifer is a unique and complex hydrological
13 system, with diverse economic and social interests dependent on the
14 aquifer for water supply;

15 (b) the concentration over time of withdrawals from the San
16 Antonio Pool of the Edwards Aquifer through the transfer of
17 groundwater withdrawal rights from the Uvalde Pool may have an
18 adverse impact on key springflow and aquifer levels, resulting in
19 less reliable groundwater withdrawal rights in the San Antonio
20 Pool;

21 (c) potential groundwater management strategies within the
22 Edwards Aquifer should be evaluated to reflect future increases in
23 the need for water;

24 (d) local issues should be considered and addressed when

1 developing management strategies to address future need;

2 (e) it is in the public interest to consider all available
3 options for groundwater management of the Edwards Aquifer;

4 (f) it is important to consider the long-term impacts to
5 aquifer levels and springflows throughout the Edwards Aquifer from
6 transporting groundwater from Uvalde and Medina counties; and

7 (g) an assessment of water transportation projects from
8 Uvalde and Medina counties should be considered through a
9 consensus-based process involving balanced, regional
10 representation.

11 SECTION 2. DEFINITIONS.

12 In this act:

13 (1) "aquifer" means the Edwards Aquifer as defined in
14 section 1.03(1) of article 1 of the Edwards Aquifer Authority Act,
15 Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws
16 2350, as amended, within the boundaries of the authority.

17 (2) "aquifer transport assessment" (or "transport
18 assessment") means a written report prepared as provided by this
19 act by the application of a scientifically derived process for
20 assessing the response of the aquifer and springflows, among other
21 things, to the transport of groundwater withdrawn from the aquifer
22 out of Uvalde County or Medina County.

23 (3) "authority" means the Edwards Aquifer Authority.

24 (4) "study group" means the Edwards Aquifer Transport Study
25 Group.

26 (5) "transport" means the movement by any means or works of
27 groundwater withdrawn from the aquifer in Uvalde or Medina Counties

1 to a point of delivery outside those counties for beneficial use
2 within the boundaries of the authority.

3 SECTION 3. EDWARDS AQUIFER TRANSPORT STUDY GROUP.

4 (a) In recognition of the legislative findings made in
5 section 1 of this act, the Edwards Aquifer Transport Study Group is
6 created. As soon as practicable after the effective date of this
7 act, the study group shall organize itself and appoint a chair.

8 (b) The study group is composed of twelve members with a
9 representative of each of the following entities, as appointed by
10 the governing body of that entity:

- 11 (1) the Edwards Aquifer Authority;
- 12 (2) the San Antonio Water System;
- 13 (3) the Guadalupe-Blanco River Authority;
- 14 (4) the San Antonio River Authority;
- 15 (5) the Nueces River Authority;
- 16 (6) the South Central Texas Water Advisory Committee;
- 17 (7) the county judge of Bexar County;
- 18 (8) the county judge of Comal County;
- 19 (9) the county judge of Hays County;
- 20 (10) the county judge of Medina County;
- 21 (11) the county judge of Uvalde County; and
- 22 (12) a representative of an environmental interest
23 identified by the study group, to be appointed by the governing body
24 of the environmental interest.

25 (c) Except for the county judges, each member of the study
26 group serves at the will of the governing body who appointed the
27 member.

1 (d) The authority on behalf of the study group may accept
2 outside gifts, grants, or other funding from any source to be used
3 to carry out the functions of the study group.

4 (e) The authority shall provide staff, administrative, and
5 funding support for the study group.

6 (f) The study group will establish a regular meeting
7 schedule and publish that schedule to encourage public
8 participation.

9 (g) Any meeting of the study group must be open to the
10 public.

11 (h) Chapter 2110, Government Code, does not apply to the
12 size, composition, or duration of the study group.

13 (i) In performing its duties, the study group shall:

14 (1) consider all reasonably available science,
15 including any project-specific studies, and base its assessment
16 solely on the best science available; and

17 (2) operate on a consensus basis to the maximum extent
18 possible.

19 (j) The study group is abolished on January 1, 2011.

20 SECTION 4. EDWARDS AQUIFER TRANSPORT ASSESSMENT.

21 (a) The study group shall prepare an aquifer transport
22 assessment.

23 (b) The aquifer transport assessment shall:

24 (1) study the possible methods and options to
25 transport groundwater from Uvalde and Medina counties;

26 (2) study the potential impacts on aquifer levels at
27 the J-17 and J-27 wells, and on spring discharge rates of the San

1 Marcos and Comal Springs, including throughout a repeat of the
2 drought of record;

3 (3) study the potential impacts of transport on the
4 authority's critical period management plan;

5 (4) include specific monitoring, studies, schedules,
6 and activities that take into account changed conditions and
7 information that more accurately reflects the impacts of any
8 transport project.

9 (5) assess the range and characteristics of entities
10 that could own, finance, design, construct, operate, and maintain a
11 transport project;

12 (6) assess the public policy implications related to
13 any transport project; and

14 (7) assess the secondary impacts of any transport
15 project, including economic impacts on local economies, local
16 employment, small businesses, fiscal impact on local governments,
17 public benefits and costs, operation of existing economic activity,
18 and economic development.

19 (c) The draft aquifer transport assessment must be
20 completed not later than September 1, 2010. The final aquifer
21 transport assessment must be completed not later than December 31,
22 2010.

23 (d) Not later than January 1, 2011, the study group shall
24 provide a copy of the final aquifer transport study to the
25 following:

26 (1) the members of the study group;

27 (2) the governor;

- 1 (3) the lieutenant governor;
- 2 (4) the speaker of the house of representatives;
- 3 (5) the chair of the House Natural Resources
4 Committee;
- 5 (6) the chair of the Senate Natural Resources
6 Committee;
- 7 (7) the chair of the Edwards Aquifer Legislative
8 Oversight Committee; and
- 9 (8) the program manager of the Edwards Aquifer
10 Recovery Implementation Program.

11 SECTION 5. EDWARDS AQUIFER TRANSPORT ASSESSMENT PEER REVIEW
12 TEAM.

13 (a) The study group created under this act shall appoint an
14 Edwards Aquifer transport assessment peer review team no later than
15 December 31, 2009. The peer review team must be composed of at
16 least five members who have technical expertise regarding the
17 issues set out in section 4(b) of this act.

18 (b) A member of the peer review team may receive
19 compensation for service on the peer review team and be reimbursed
20 for reasonable and necessary expenses incurred by the member while
21 conducting the business of the peer review team.

22 (c) Chapter 2110, Government Code, does not apply to the
23 size, composition, or duration of the peer review team.

24 (d) The peer review team shall review and evaluate the draft
25 transport assessment to maintain or enhance the quality of the
26 assessment by identifying the strengths of the assessment as well
27 as any weaknesses, errors, or deficiencies, and offer appropriate

1 suggestions for improvement.

2 (e) The study group shall review the peer review comments
3 and provide written responses to the comments, and make changes or
4 otherwise incorporate the comments as may be appropriate in the
5 judgment of the study group.

6 SECTION 6. PUBLIC HEARINGS.

7 (a) The study group shall conduct the following public
8 hearings:

9 (1) at least one organizational public hearing to
10 introduce the study group, discuss and explain its mission and
11 charge, provide the probable organization of and the likely scope
12 of the issues to be considered in the aquifer transport assessment,
13 and to take public comment on these matters.

14 (2) at least one public hearing to take public comment
15 on the draft aquifer transport assessment.

16 (b) Public hearings will be conducted in the manner the
17 study group deems most suitable to conveniently, inexpensively and
18 expeditiously provide a reasonable opportunity for interested
19 persons to submit relevant data, views, or arguments, in writing or
20 orally.

21 (c) The chair of the study group will be the presiding
22 officer of any public hearings.

23 (d) Public hearings may be recorded in any manner deemed
24 appropriate by the study group.

25 (e) Authority staff will provide to all permit holders
26 written notice of any public hearings.

27 (f) At least 14 days before the date of the public hearings,

1 Authority staff will publish notice of any public hearings in the
2 following:

3 (1) a newspaper of general circulation within the
4 boundaries of the authority; and

5 (2) four other newspapers with circulation within the
6 boundaries of the authority.

7 (h) A notice of public hearing must include:

8 (1) a statement of the purpose of the hearing;

9 (2) the date, time, and place of the public hearing;

10 (3) the procedures for obtaining copies of the draft
11 aquifer transport assessment;

12 (4) the procedures for submitting written comments and
13 the date and time by which they must be filed with the study group;
14 and

15 (5) a statement regarding the opportunity to appear
16 and make public comment at the public hearing.

17 (i) Written comments to the draft aquifer transport
18 assessment must be filed at the official address of the authority or
19 hand delivered to the presiding officer of any public hearing.
20 Written comments must be filed no later than 15 days after the date
21 of the last public hearing. Written comments should be typed or
22 legibly written. The study group shall consider all comments prior
23 to approving the final aquifer transport assessment and must
24 prepare written responses only to written public comments.

25 SECTION 7. EMERGENCY. The importance of this legislation
26 and the crowded condition of the calendars in both houses create an
27 emergency and an imperative public necessary that the

1 constitutional rule requiring bills to be read on three several
2 days in each house be suspended, and this rule is hereby suspended,
3 and that this Act take effect and be in force from and after its
4 passage, and it is so enacted.

5 SECTION 8. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.