

Amend CSHB 725 (Senate Committee Report) by adding the appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subdivisions (6), (9), (10), (20), (21), and (25) and adding Subdivision (28) to read as follows:

(6) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

(9) "Domestic [~~or livestock~~] use" means the use of water for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of a family garden or orchard the produce of which is for household consumption only; or

(C) the watering of residential landscape of one-half acre or less or any other purpose incidental to and associated with domestic activities, provided that the primary purpose of the well is for the purposes of Paragraph (A) [~~watering of animals~~].

(10) "Existing user" means a person who has withdrawn and beneficially used groundwater [~~underground water~~] from the aquifer on or before June 1, 1993.

(20) "Groundwater" means water percolating beneath the surface of the earth [~~"Underground water" has the meaning assigned by Section 52.001, Water Code~~].

(21) "Waste" means:

(A) withdrawal of groundwater [~~underground water~~] from the aquifer at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from the aquifer if the water produced is not used for a beneficial purpose;

(C) escape of groundwater [~~underground water~~] from the aquifer to any other reservoir that does not contain groundwater [~~underground water~~];

(D) pollution or harmful alteration of groundwater [~~underground water~~] in the aquifer by salt water or

other deleterious matter admitted from another stratum or from the surface of the ground;

(E) wilfully or negligently causing, suffering, or permitting groundwater [~~underground water~~] from the aquifer to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26, Water Code;

(F) groundwater [~~underground water~~] pumped from the aquifer for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Water Code.

(25) "Withdrawal" means an act or a failure to act that results in taking water from the aquifer by or through man-made facilities, including pumping, withdrawing, or diverting groundwater [~~underground water~~].

(28) "Livestock use" means the use of water for watering livestock or poultry.

SECTION _____. Section 1.07, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.07. OWNERSHIP OF GROUNDWATER [~~UNDERGROUND WATER~~]. The ownership and rights of the owner of the land and the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, in groundwater [~~underground water~~] and the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use are recognized. However, action taken pursuant to this Act may not be construed as depriving or divesting the owner or the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, of these ownership rights or as impairing the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to

the public for any use, subject to the rules adopted by the authority [~~or a district exercising the powers provided by Chapter 52, Water Code~~]. The legislature intends that just compensation be paid if implementation of this article causes a taking of private property or the impairment of a contract in contravention of the Texas or federal constitution.

SECTION _____. Sections 1.08(a) and (b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) The authority has all of the powers, rights, and privileges necessary to manage, conserve, preserve, and protect the aquifer and to increase the recharge of, and prevent the waste or pollution of water in, the aquifer. The authority has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and [50,] 51, [~~and 52,~~] Water Code, applicable to an authority created under Article XVI, Section 59, of the Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article regarding the area of the authority's jurisdiction. Chapter 36, Water Code, does not apply to the authority.

(b) The authority's powers regarding groundwater [~~underground water~~] apply only to groundwater [~~underground water~~] within or withdrawn from the aquifer. This section [~~subsection~~] is not intended to allow the authority to regulate surface water.

SECTION _____. Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:

(d) Section [~~Sections 41.003 and~~] 41.008, Election Code, does [~~do~~] not apply to an election held under this article.

(i) A member of a governing body of another political subdivision is ineligible for appointment or election as a director of the authority. A director of the authority is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision.

SECTION _____. Section 1.10(h), Chapter 626, Acts of the

73rd Legislature, Regular Session, 1993, is amended to read as follows:

(h) The presiding officer of the advisory committee shall submit a report assessing the effectiveness of the authority to the commission and the authority by December [~~March~~] 31 of each even-numbered year. The report must assess the effect on downstream water rights of the management of the aquifer. The authority shall consider the report in managing the authority's affairs.

SECTION _____. Sections 1.11(d) and (g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(d) The authority may:

(1) issue or administer grants, loans, or other financial assistance to water users for water conservation and water reuse;

(2) enter into contracts;

(3) sue and be sued only in its own name;

(4) receive gifts, grants, awards, and loans for use in carrying out its powers and duties;

(5) hire an executive director to be the chief administrator of the authority and other employees as necessary to carry out its powers and duties;

(6) delegate the power to hire employees to the executive director of the authority;

(7) own real and personal property;

(8) close abandoned, wasteful, or dangerous wells;

(9) hold permits under state law or under federal law pertaining to the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) and its amendments;

(10) enforce Chapter 1901 [~~32~~], Occupations Code [~~Water Code~~], and Texas Department of Licensing and Regulation [~~commission~~] rules adopted under that chapter [~~Act~~] within the authority's boundaries; and

(11) require to be furnished to the authority water well drillers' logs that are required by Chapter 1901 [~~32~~], Occupations Code [~~Water Code~~], to be kept and furnished to the Texas

Department of Licensing and Regulation [~~commission~~].

(g) The authority has the power of eminent domain. The authority may not acquire rights to groundwater [~~underground water~~] by the power of eminent domain.

SECTION _____. Section 1.13, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.13. REUSE AUTHORIZED. Any regulation of the withdrawal of water from the aquifer must allow for credit to be given for certified reuse of the water. For regulatory credit, the authority [~~or a local underground water conservation district~~] must certify:

- (1) the lawful use and reuse of aquifer water;
- (2) the amount of aquifer water to be used; and
- (3) the amount of aquifer withdrawals replaced by reuse.

SECTION _____. Section 1.14(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement or [~~7~~] test[~~7~~, ~~or exempt~~] wells or wells exempt under Section 1.33 of this article or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit.

SECTION _____. Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) A permit issued by the authority to an applicant must state the terms and provisions prescribed by the authority. Each groundwater withdrawal permit must specify the maximum rate and total volume of water that the water user may withdraw in a calendar year.

(d-1) A permit may include:

- (1) the name and address of the person to whom the permit is issued;
- (2) the location of the well;
- (3) the term of the permit, including the date the

permit is to expire;

(4) a statement of the purpose for which the well is to be used;

(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(6) the location at which the water from the well will be used;

(7) a water well closure plan or a declaration that the applicant will comply with the authority's well closure requirements and notify the authority of the closure;

(8) conditions and restrictions on the rate and amount of withdrawal;

(9) conservation requirements prescribed by the authority;

(10) a drought contingency plan prescribed by the authority; and

(11) other terms and conditions the authority determines reasonable and appropriate.

SECTION _____. Sections 1.16(a), (b), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) An existing user may apply for an initial regular permit by filing a declaration of historical use of groundwater [~~underground water~~] withdrawn from the aquifer during the historical period from June 1, 1972, through May 31, 1993.

(b) An existing user's declaration of historical use must be filed on or before December 30, 1996 [~~March 1, 1994~~], on a form prescribed by the board. An applicant for a permit must timely pay all application fees required by the board. An owner of a well used for irrigation must include additional documentation of the number of acres irrigated during the historical period provided by Subsection (a) of this section.

(d) The board shall grant an initial regular permit to an existing user who:

(1) files a declaration and pays fees as required by this section; and

(2) establishes by convincing evidence beneficial use

of groundwater [~~underground water~~] from the aquifer.

SECTION _____. Sections 1.17(a) and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A person who, on the effective date of this article, owns a producing well that withdraws water from the aquifer may continue to withdraw and beneficially use water without waste until final action on permits by the authority, if:

(1) the well is in compliance with all statutes and rules relating to well construction, approval, location, spacing, and operation; and

(2) by December 30, 1996 [~~March 1, 1994~~], the person files a declaration of historical use on a form as required by the authority.

(d) Interim authorization for a well under this section ends on:

(1) entry of a final and appealable order by the authority acting on the application for the well; or

(2) December 30, 1996 [~~March 1, 1994~~], if the well owner has not filed a declaration of historical use.

SECTION _____. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Sections 1.21 and 1.211 to read as follows:

Sec. 1.21. CONTESTED CASE HEARINGS; REQUEST FOR REHEARING OR FINDINGS AND CONCLUSIONS. (a) The authority, by rule, shall define under what circumstances an application is considered contested and shall limit participation in a hearing on a contested application held in accordance with authority rules to persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by an application, not including persons who have an interest common to members of the public.

(b) Except as provided by Subsection (c) of this section, an applicant or a party to a contested hearing may file a request for rehearing not later than the 20th day after the date of the board's decision.

(c) An applicant or a party to a contested hearing may

request written findings of fact and conclusions of law not later than the 20th day after the date of the board's decision on the application. On receipt of a timely filed written request under this subsection, the board shall make written findings of fact and conclusions of law regarding a decision of the board on the application. The board shall provide copies of the findings of fact and conclusions of law to the person who requested them, and to each person who provided comments at the initial hearing or each designated party, not later than the 35th day after the date the board received the request. A person who receives a copy of the findings of fact and conclusions of law from the board may request a rehearing before the board not later than the 20th day after the date the board issues the findings of fact and conclusions of law.

(d) A request for rehearing on a contested matter must be filed in the authority's office and must state the grounds for the request.

(e) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(f) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request.

Sec. 1.211. APPLICATION DECISION; WHEN FINAL. (a) A decision by the board on an application is final:

(1) if a request for rehearing is not timely filed, on the expiration of the period for filing a request for rehearing; or

(2) if a request for rehearing is timely filed, on the date:

(A) the board denies the request for rehearing;
or

(B) the board renders a written decision after rehearing.

(b) A timely filed motion for rehearing challenging a decision in a contested hearing is a prerequisite to a suit against the authority under Section 1.46 of this article. A suit under that section may be filed not later than the 60th day after the date on which the decision becomes final.

SECTION _____. Section 1.22(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority may acquire, ~~and~~ hold, and transfer permits or rights to appropriate surface water or groundwater from sources inside or outside of the authority's boundaries. The authority may transport and distribute surface water or groundwater as necessary to accomplish the powers and duties authorized by this article or other applicable law.

SECTION _____. Section 1.25, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.25. GROUNDWATER ~~[COMPREHENSIVE]~~ MANAGEMENT PLAN.

(a) Consistent with Section 1.14 of this article, after notice and hearing, the authority shall develop~~[, by September 1, 1995,]~~ and implement a groundwater ~~[comprehensive water]~~ management plan that includes conservation, future supply, and demand management plans. The authority may not delegate the development of the plan under Section 1.42 of this article.

(b) The authority shall develop the groundwater management plan, and any amendment to the plan, using the best available data that the authority has obtained and forward the plan, and any amendment to the plan, to the appropriate regional water planning group for use in the group's planning process ~~[The authority, in conjunction with the South Central Texas Water Advisory Committee, the Texas Water Development Board, and underground water conservation districts within the authority's boundaries, shall develop a 20-year plan for providing alternative supplies of water to the region, with five-year goals and objectives, to be implemented by the authority and reviewed annually by the appropriate state agencies and the Edwards Aquifer Legislative Oversight Committee. The authority, advisory committee, Texas Water Development Board, and districts, in developing the plan, shall:~~

~~[(1) thoroughly investigate all alternative technologies,~~

~~[(2) investigate mechanisms for providing financial assistance for alternative supplies through the Texas Water~~

~~Development Board, and~~

~~[(3) perform a cost-benefit analysis and an environmental analysis].~~

(c) On request by the authority, the commission and the Texas Water Development Board shall provide technical assistance to the authority in the development of the groundwater management plan. The technical assistance provided may include a preliminary review and comment on the plan prior to final certification by the executive administrator of the Texas Water Development Board. If such review and comment by the commission is requested, the commission shall provide comment not later than the 30th day after the date the request is received.

(d) On request of the executive director of the commission or the executive administrator of the Texas Water Development Board, the authority shall make available information that it acquires concerning the aquifer and information concerning its plans and activities in conserving and protecting the aquifer. On request of the authority, the executive director and the executive administrator shall provide information they acquire concerning the aquifer within the authority's jurisdiction.

(e) In the groundwater management plan, the authority shall:

(1) identify the performance standards and management objectives under which the authority will operate to achieve its aquifer management goals;

(2) specify the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) the amount of groundwater being used within the authority on an annual basis;

(B) the annual amount of recharge to the aquifer;

(C) the annual volume of water that discharges from the aquifer to springs;

(D) the annual volume of flow into and out of the authority's jurisdiction within the aquifer and between the aquifer and other aquifers within the authority's boundaries, if an

appropriate groundwater availability model is available;

(E) the projected surface water supply in the authority according to the most recently adopted state water plan; and

(F) the projected total demand for water in the authority according to the most recently adopted state water plan; and

(4) consider the water supply needs and water management strategies included in the adopted state water plan.

(f) The authority shall adopt amendments to the groundwater management plan as necessary. An amendment to the plan may be adopted only after notice and hearing. An amendment to the plan shall be submitted to the executive administrator of the Texas Water Development Board not later than the 60th day after the date the amendment is adopted by the board. The executive administrator shall review and certify any amendment in accordance with the procedures established in this section.

(g) The authority shall, not later than December 31, 2015, submit its next groundwater management plan to the executive administrator of the Texas Water Development Board for review and certification.

(h) Not later than the 60th day after the date of receipt of the groundwater management plan adopted by the board, the executive administrator of the Texas Water Development Board shall certify the plan if the plan is administratively complete. The plan is administratively complete if it contains the information required by this section. Once the executive administrator has certified the plan, the executive administrator may not decertify the plan.

(i) The groundwater management plan takes effect on certification by the executive administrator of the Texas Water Development Board.

(j) The authority shall review its groundwater management plan annually and must review and readopt the plan with or without amendments at least once every five years. The authority shall provide the readopted plan to the executive administrator of the Texas Water Development Board not later than the 60th day after the date on which the plan was readopted by the board. Certification of

the preceding plan remains in effect until the executive administrator has certified the readopted plan.

(k) If the executive administrator of the Texas Water Development Board does not certify the groundwater management plan, the executive administrator shall provide to the authority, in writing, the reasons for the action. Not later than the 180th day after the date the authority receives notice that its plan has not been certified, the authority may submit a revised plan for review and certification. The executive administrator's decision may be appealed to the Texas Water Development Board. If the Texas Water Development Board decides not to certify the plan on appeal, the authority may request that the conflict be mediated. The authority and the Texas Water Development Board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas at Austin School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the decision of the Texas Water Development Board not to certify the plan may be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

SECTION _____. Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (f), (g), (h), and (i) to read as follows:

(f) In addition to the fees assessed under Subsection (b) of this section, the authority may assess fees to recover administrative costs such as filing and processing applications and registrations. The fees may not unreasonably exceed the administrative costs. [~~The authority shall impose a permit application fee not to exceed \$25.~~]

(g) [~~The authority may impose a registration application fee not to exceed \$10.~~]

[~~(h)~~] Fees assessed by the authority may not be used to fund

the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements.

(h) [~~(i)~~] The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION _____. Section 1.30(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) Section [~~Sections 11.028 and~~] 11.033, Water Code, does [~~do~~] not apply to a permit issued under this section.

SECTION _____. Section 1.31(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority is responsible for the costs of purchasing, installing, and maintaining measuring devices, if required, for an irrigation well in existence on June 28, 1996 [~~September 1, 1993~~].

SECTION _____. Section 1.33, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.33. WELL METERING EXEMPTION. (a) Except as provided by Subsections (d) and (e) of this section, a [A] well that is drilled, completed, or equipped so that it is incapable of producing more than [produces] 25,000 gallons of water per [a] day and is and will be used exclusively [or less] for domestic use or livestock use is exempt from metering and withdrawal permit requirements.

(b) A well drilled on or before June 1, 2011, that is incapable of producing more than 1,250 gallons of water per day or that is metered and does not produce more than 1,250 gallons of water per day for any purpose authorized in this article is exempt

from withdrawal permit requirements. Multiple wells may not be used in combination in a manner to satisfy a single water use or purpose, that when combined, would not come within the requirements of this subsection.

(c) A well that is exempt under Subsection (a) or (b) of this section [~~Exempt wells~~] must be registered [~~register~~] with the authority [~~or with an underground water conservation district in which the well is located~~].

(d) [~~(c)~~] A well that meets the requirements of Subsection (a) of this section [~~within or serving a subdivision requiring platting~~] does not qualify for an exemption if the well:

(1) serves a subdivision of land requiring plat approval under Chapter 232, Local Government Code;

(2) supplies water to a public water system as defined by 30 T.A.C. Section 290.38; or

(3) produces groundwater for domestic use, was drilled on or before June 1, 2011, and is on a tract of land with a residence that receives water service from a retail public utility as defined by Section 13.002, Water Code [~~exempt use~~].

(e) A well drilled after June 1, 2011, that meets the requirements of Subsection (a) of this section, is exempt from metering and withdrawal permit requirements only if the well is on a tract of land larger than 10 acres.

SECTION _____. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.361 to read as follows:

Sec. 1.361. ABANDONED, OPEN, UNCOVERED, OR DETERIORATED WELLS. (a) If the owner or lessee of land on which an abandoned, open, uncovered, or deteriorated well is located fails or refuses to close, cap, or plug the well in compliance with Chapter 1901, Occupations Code, and the authority's rules, the authority or its authorized employees, representatives, or agents may enter the land and close, cap, or plug the well in a safe and secure manner.

(b) Reasonable expenses incurred by the authority in closing, capping, or plugging a well constitute a lien on the land on which the well is located.

(c) A lien described by Subsection (b) of this section

arises and attaches after an affidavit executed by any person with knowledge of the facts of the closing, capping, or plugging is recorded in the deed records of the county where the well is located. The affidavit must contain:

(1) a statement or photograph confirming the existence of the well;

(2) the legal description of the property on which the well is located;

(3) a description of the approximate location of the well on the property;

(4) a statement confirming the failure or refusal of the owner or lessee, after notification, to close or cap the well within 10 days after the notification;

(5) a statement confirming the closing, capping, or plugging of the well by the authority, or by an authorized agent, representative, or employee of the authority; and

(6) a statement of the expenses incurred by the authority in closing, capping, or plugging the well.

(d) Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

SECTION _____. Sections 1.37(j), (n), and (r), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(j) Within 30 days after the date the authority's order is final as provided by Section 2001.144(a), Government Code [~~Subsection (c), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~], the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(n) Judicial review of the order of the authority:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code [~~Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~]; and

(2) is under the substantial evidence rule.

(r) All proceedings under this section are subject to Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~].

SECTION _____. Section 1.38, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.38. INJUNCTION BY AUTHORITY. (a) The authority may file a civil suit in a state district court for an injunction or mandatory injunction to enforce this article. The authority may recover reasonable attorney fees in a suit under this section.

(b) In an enforcement action by the authority against a governmental entity for a violation of authority rules, the limits on the amount of fees, costs, and penalties that the authority may impose under this section constitute a limit of the governmental entity's liability for the violation. This subsection shall not be construed to prohibit the recovery by the authority of fees and costs under this article in an action against a governmental entity.

SECTION _____. Sections 1.42(a), (b), and (c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer after the effective date of this article only as provided in this section. This article does not affect a water reclamation or conservation district that manages and controls only water from a resource other than the aquifer.

(b) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer to the extent that those management activities do not conflict with and are not duplicative of this

article or the rules and orders of the authority.

(c) Except as otherwise provided by this article, the board may delegate the powers and duties granted to it under this article. The board shall delegate all or part of its powers or duties to a groundwater [~~an underground water~~] conservation district on the district's request if the district demonstrates to the satisfaction of the board that:

(1) the district has statutory powers necessary for full enforcement of the rules and orders to be delegated;

(2) the district has implemented all rules and policies necessary to fully implement the programs to be delegated; and

(3) the district has implemented a system designed to provide the authority with adequate information with which to monitor the adequacy of the district's performance in enforcing board rules and orders.

SECTION _____. Section 1.43, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.43. CREATION OF GROUNDWATER [~~UNDERGROUND WATER~~] CONSERVATION DISTRICT. A groundwater [~~An underground water~~] conservation district may be created in any county affected by this article as provided by Subchapter B, Chapter 36 [~~52~~], Water Code.

SECTION _____. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.46 to read as follows:

Sec. 1.46. SUITS. (a) An affected person dissatisfied with any authority rule, order, or act is entitled to file suit against the authority or its directors to challenge the validity of the rule, order, or act. The suit may be filed in any county in which the authority is located. The suit may be filed only after all administrative appeals to the authority are final. The burden of proof is on the petitioner, and the challenged rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by Section 2001.038 or 2001.174, Government Code, as appropriate.

(b) If the authority prevails in a suit to enforce this article or its rules, orders, or acts, or in a suit other than a suit in which it voluntarily intervenes, the authority may seek and the

court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the authority before the court. The court shall set the amount of the attorney's fees.

SECTION _____. Section 4.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is transferred to Article 1 of that Act, redesignated as Section 1.47, and amended to read as follows:

Sec. 1.47 [~~4.02~~]. ORIGINAL EFFECTIVE DATES. This article [~~Act~~] takes effect June 28, 1996 [~~September 1, 1993~~], except Section 1.35 of Article 1 takes effect December 30, 1996 [~~March 1, 1994~~].

SECTION _____. Section 3.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 3.02. NOTICE OF AVAILABLE WATER. The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality shall notify the Edwards Aquifer Authority of any water available for appropriation in the Guadalupe-Blanco River Basin as the commission discovers the available water.

SECTION _____. Section 36.205(e), Water Code, is amended to read as follows:

(e) Subsection (c) does not apply to the following districts:

- (1) [~~the Edwards Aquifer Authority,~~
[~~2~~]] the Fort Bend Subsidence District;
- (2) [~~3~~] the Harris-Galveston Coastal Subsidence District;
- (3) [~~4~~] the Barton Springs-Edwards Aquifer Conservation District; or
- (4) [~~5~~] any district that collects a property tax and that was created before September 1, 1999, unless otherwise authorized by special law.

SECTION _____. The following laws are repealed:

- (1) Section 1.41(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and
- (2) Sections 36.101(1), 36.1011(e), and 36.419, Water Code.

SECTION _____. (a) A suit based on or derived from Chapter 36, Water Code, contesting the validity or implementation of Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the Edwards Aquifer Authority under that article may not be instituted in a state court.

(b) A person may not institute or maintain a suit against the Edwards Aquifer Authority based on or derived from Chapter 36, Water Code, for any injury or potential injury, including any injury or potential injury caused by an action taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the authority under that article.

(c) The changes in law made by this Act to Chapter 36, Water Code, apply only to a cause of action against the Edwards Aquifer Authority filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in effect when the cause of action was filed, and the former law is continued in effect for that purpose.

SECTION _____. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.