

By: Hegar, et al.

S.B. No. 1625

A BILL TO BE ENTITLED

AN ACT

relating to the administration, powers, duties, and operation of the Edwards Aquifer Authority.

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

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(10) "Existing user" means a person who has withdrawn and beneficially used groundwater ~~[underground water]~~ from the aquifer on or before June 1, 1993.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

1 the surface of the earth [~~"Underground water" has the meaning~~
2 ~~assigned by Section 52.001, Water Code~~].

3 (21) "Waste" means:

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

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

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

13 (D) pollution or harmful alteration of
14 groundwater [~~underground water~~] in the aquifer by salt water or
15 other deleterious matter admitted from another stratum or from the
16 surface of the ground;

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

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

1 discharge; or

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

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

8 (28) "Livestock use" means the use of water for
9 watering livestock.

10 SECTION 2. Section 1.07, Chapter 626, Acts of the 73rd
11 Legislature, Regular Session, 1993, is amended to read as follows:

12 Sec. 1.07. OWNERSHIP OF GROUNDWATER [~~UNDERGROUND WATER~~].
13 The ownership and rights of the owner of the land and the owner's
14 lessees and assigns, including holders of recorded liens or other
15 security interests in the land, in groundwater [~~underground water~~]
16 and the contract rights of any person who purchases water for the
17 provision of potable water to the public or for the resale of
18 potable water to the public for any use are recognized. However,
19 action taken pursuant to this Act may not be construed as depriving
20 or divesting the owner or the owner's lessees and assigns,
21 including holders of recorded liens or other security interests in
22 the land, of these ownership rights or as impairing the contract
23 rights of any person who purchases water for the provision of
24 potable water to the public or for the resale of potable water to
25 the public for any use, subject to the rules adopted by the
26 authority [~~or a district exercising the powers provided by Chapter~~
27 ~~52, Water Code~~]. The legislature intends that just compensation be

1 paid if implementation of this article causes a taking of private
2 property or the impairment of a contract in contravention of the
3 Texas or federal constitution.

4 SECTION 3. Subsections (a) and (b), Section 1.08, Chapter
5 626, Acts of the 73rd Legislature, Regular Session, 1993, are
6 amended to read as follows:

7 (a) The authority has all of the powers, rights, and
8 privileges necessary to manage, conserve, preserve, and protect the
9 aquifer and to increase the recharge of, and prevent the waste or
10 pollution of water in, the aquifer. The authority has all of the
11 rights, powers, privileges, authority, functions, and duties
12 provided by the general law of this state, including Chapters 49 and
13 [50,] 51, [and 52,] Water Code, applicable to an authority created
14 under Article XVI, Section 59, of the Texas Constitution. This
15 article prevails over any provision of general law that is in
16 conflict or inconsistent with this article regarding the area of
17 the authority's jurisdiction. Chapter 36, Water Code, does not
18 apply to the authority.

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

23 SECTION 4. Section 1.09, Chapter 626, Acts of the 73rd
24 Legislature, Regular Session, 1993, is amended by amending
25 Subsection (d) and adding Subsection (i) to read as follows:

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

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

7 SECTION 5. Subsection (h), Section 1.10, Chapter 626, Acts
8 of the 73rd Legislature, Regular Session, 1993, is amended to read
9 as follows:

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

17 SECTION 6. Subsections (d) and (g), Section 1.11, Chapter
18 626, Acts of the 73rd Legislature, Regular Session, 1993, are
19 amended to read as follows:

20 (d) The authority may:

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

24 (2) enter into contracts;

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

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

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

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

6 (7) own real and personal property;

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

8 (9) hold permits under state law or under federal law
9 pertaining to the Endangered Species Act of 1973 (16 U.S.C. Section
10 1531 et seq.) and its amendments;

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

15 (11) require to be furnished to the authority water
16 well drillers' logs that are required by Chapter 1901 [~~32~~],
17 Occupations Code [~~Water Code~~], to be kept and furnished to the Texas
18 Department of Licensing and Regulation [~~commission~~].

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

22 SECTION 7. Section 1.13, Chapter 626, Acts of the 73rd
23 Legislature, Regular Session, 1993, is amended to read as follows:

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

1 certify:

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

6 SECTION 8. Subsection (e), Section 1.14, Chapter 626, Acts

7 of the 73rd Legislature, Regular Session, 1993, is amended to read

8 as follows:

9 (e) The authority may not allow withdrawals from the aquifer

10 through wells drilled after June 1, 1993, except for replacement

11 or ~~test~~ ~~[, or exempt]~~ wells or wells exempt under Section 1.33 of

12 this article or to the extent that the authority approves an

13 amendment to an initial regular permit to authorize a change in the

14 point of withdrawal under that permit.

15 SECTION 9. Subsections (a), (b), and (d), Section 1.16,

16 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,

17 are amended to read as follows:

18 (a) An existing user may apply for an initial regular permit

19 by filing a declaration of historical use of groundwater

20 ~~[underground water]~~ withdrawn from the aquifer during the

21 historical period from June 1, 1972, through May 31, 1993.

22 (b) An existing user's declaration of historical use must be

23 filed on or before December 30, 1996 ~~[March 1, 1994]~~, on a form

24 prescribed by the board. An applicant for a permit must timely pay

25 all application fees required by the board. An owner of a well used

26 for irrigation must include additional documentation of the number

27 of acres irrigated during the historical period provided by

1 Subsection (a) of this section.

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

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

6 (2) establishes by convincing evidence beneficial use
7 of groundwater [~~underground water~~] from the aquifer.

8 SECTION 10. Subsections (a) and (d), Section 1.17, Chapter
9 626, Acts of the 73rd Legislature, Regular Session, 1993, are
10 amended to read as follows:

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

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

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

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

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

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

27 SECTION 11. Article 1, Chapter 626, Acts of the 73rd

1 Legislature, Regular Session, 1993, is amended by adding Sections
2 1.21 and 1.211 to read as follows:

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

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

16 (c) An applicant or a party to a contested hearing may
17 request written findings of fact and conclusions of law not later
18 than the 20th day after the date of the board's decision on the
19 application. On receipt of a timely filed written request under
20 this subsection, the board shall make written findings of fact and
21 conclusions of law regarding a decision of the board on the
22 application. The board shall provide copies of the findings of fact
23 and conclusions of law to the person who requested them, and to each
24 person who provided comments at the initial hearing or each
25 designated party, not later than the 35th day after the date the
26 board received the request. A person who receives a copy of the
27 findings of fact and conclusions of law from the board may request a

1 rehearing before the board not later than the 20th day after the
2 date the board issues the findings of fact and conclusions of law.

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

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

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

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

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

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

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

19 or

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

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

27 SECTION 12. Subsection (b), Section 1.22, Chapter 626, Acts

1 of the 73rd Legislature, Regular Session, 1993, is amended to read
2 as follows:

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

9 SECTION 13. Section 1.25, Chapter 626, Acts of the 73rd
10 Legislature, Regular Session, 1993, is amended to read as follows:

11 Sec. 1.25. COMPREHENSIVE MANAGEMENT PLAN. (a) Consistent
12 with Section 1.14 of this article, the authority shall develop~~[, by~~
13 ~~September 1, 1995,~~] and implement a comprehensive water management
14 plan that includes conservation, future supply, and demand
15 management plans. The authority may not delegate the development
16 of the plan under Section 1.42 of this article.

17 (b) The authority, in conjunction with the South Central
18 Texas Water Advisory Committee, the Texas Water Development Board,
19 and groundwater [~~underground water~~] conservation districts within
20 the authority's boundaries, shall develop a 20-year plan for
21 providing alternative supplies of water to the region, with
22 five-year goals and objectives, to be implemented by the authority
23 and reviewed annually by the appropriate state agencies [~~and the~~
24 ~~Edwards Aquifer Legislative Oversight Committee~~]. The authority,
25 advisory committee, Texas Water Development Board, and districts,
26 in developing the plan, shall:

27 (1) thoroughly investigate all alternative

1 technologies;

2 (2) investigate mechanisms for providing financial
3 assistance for alternative supplies through the Texas Water
4 Development Board; and

5 (3) perform a cost-benefit analysis and an
6 environmental analysis.

7 SECTION 14. Section 1.26A, Chapter 626, Acts of the 73rd
8 Legislature, Regular Session, 1993, is amended by adding Subsection
9 (r) to read as follows:

10 (r) After the authority receives the program document
11 produced in accordance with this section, the steering committee
12 may transfer the administration of the recovery implementation
13 program to any entity that the steering committee considers
14 suitable for the administration and performance of the program's
15 continuing functions. The transfer may include all files, records,
16 personal property, contracts, unobligated and unexpended money,
17 and staff, including the program manager.

18 SECTION 15. Subsections (f) through (i), Section 1.29,
19 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
20 are amended to read as follows:

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

27 (g) [~~The authority may impose a registration application~~

1 ~~fee not to exceed \$10.~~

2 ~~[(h)]~~ Fees assessed by the authority may not be used to fund
3 the cost of reducing withdrawals or retiring permits or of
4 judgments or claims related to withdrawals or permit retirements.

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

15 SECTION 16. Subsection (e), Section 1.30, Chapter 626, Acts
16 of the 73rd Legislature, Regular Session, 1993, is amended to read
17 as follows:

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

20 SECTION 17. Subsection (b), Section 1.31, Chapter 626, Acts
21 of the 73rd Legislature, Regular Session, 1993, is amended to read
22 as follows:

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

27 SECTION 18. Section 1.33, Chapter 626, Acts of the 73rd

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

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

9 (b) A well drilled on or before June 1, 2011, that is
10 incapable of producing more than 1,250 gallons of water per day or
11 that is metered and does not produce more than 1,250 gallons of
12 water per day for any purpose authorized in this article is exempt
13 from withdrawal permit requirements. Multiple wells may not be
14 used in combination in a manner to satisfy a single water use or
15 purpose, that when combined, would not come within the requirements
16 of this subsection.

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

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

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

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

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

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

9 SECTION 19. Article 1, Chapter 626, Acts of the 73rd
10 Legislature, Regular Session, 1993, is amended by adding Section
11 1.361 to read as follows:

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

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

22 (c) A lien described by Subsection (b) of this section
23 arises and attaches after an affidavit executed by any person with
24 knowledge of the facts of the closing, capping, or plugging is
25 recorded in the deed records of the county where the well is
26 located. The affidavit must contain:

27 (1) a statement or photograph confirming the existence

1 of the well;

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

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

6 (4) a statement confirming the failure or refusal of
7 the owner or lessee, after notification, to close or cap the well
8 within 10 days after the notification, or to plug the well within
9 180 days after notification, as required by the authority's rules;

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

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

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

17 SECTION 20. Subsections (j), (n), and (r), Section 1.37,
18 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
19 are amended to read as follows:

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

25 (1) pay the amount of the penalty;

26 (2) pay the amount of the penalty and file a petition
27 for judicial review contesting the occurrence of the violation, the

1 amount of the penalty, or both the occurrence of the violation and
2 the amount of the penalty; or

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

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

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

12 (2) is under the substantial evidence rule.

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

17 SECTION 21. Section 1.38, Chapter 626, Acts of the 73rd
18 Legislature, Regular Session, 1993, is amended to read as follows:

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

23 (b) In an enforcement action by the authority against a
24 governmental entity for a violation of authority rules, the limits
25 on the amount of fees, costs, and penalties that the authority may
26 impose under this section constitute a limit of the governmental
27 entity's liability for the violation. This subsection shall not be

1 construed to prohibit the recovery by the authority of fees and
2 costs under this article in an action against a governmental
3 entity.

4 SECTION 22. Subsections (a), (b), and (c), Section 1.42,
5 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
6 are amended to read as follows:

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

13 (b) A groundwater [~~An underground water~~] conservation
14 district other than the authority may manage and control water that
15 is a part of the aquifer to the extent that those management
16 activities do not conflict with and are not duplicative of this
17 article or the rules and orders of the authority.

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

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

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

1 and

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

6 SECTION 23. Section 1.43, Chapter 626, Acts of the 73rd
7 Legislature, Regular Session, 1993, is amended to read as follows:

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

12 SECTION 24. Article 1, Chapter 626, Acts of the 73rd
13 Legislature, Regular Session, 1993, is amended by adding Section
14 1.46 to read as follows:

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

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

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

5 SECTION 25. Section 4.02, Chapter 626, Acts of the 73rd
6 Legislature, Regular Session, 1993, is transferred to Article 1 of
7 that Act, redesignated as Section 1.47, and amended to read as
8 follows:

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

12 SECTION 26. Section 3.02, Chapter 626, Acts of the 73rd
13 Legislature, Regular Session, 1993, is amended to read as follows:

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

19 SECTION 27. Subsection (e), Section 36.205, Water Code, is
20 amended to read as follows:

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

- 23 (1) [~~the Edwards Aquifer Authority,~~
24 [~~2~~] the Fort Bend Subsidence District;
25 (2) [~~3~~] the Harris-Galveston Coastal Subsidence
26 District;
27 (3) [~~4~~] the Barton Springs-Edwards Aquifer

1 Conservation District; or

2 (4) [~~(5)~~] any district that collects a property tax
3 and that was created before September 1, 1999, unless otherwise
4 authorized by special law.

5 SECTION 28. The following laws are repealed:

6 (1) Subsection (d), Section 1.41, and Section 3.01,
7 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;
8 and

9 (2) Subsection (1), Section 36.101, Subsection (e),
10 Section 36.1011, and Section 36.419, Water Code.

11 SECTION 29. (a) The legal notice of the intention to
12 introduce this Act, setting forth the general substance of this
13 Act, has been published as provided by law, and the notice and a
14 copy of this Act have been furnished to all persons, agencies,
15 officials, or entities to which they are required to be furnished
16 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
17 Government Code.

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

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

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

1 and accomplished.

2 SECTION 30. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2011.