

1-1 By: Hegar S.B. No. 1625  
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 April 5, 2011, reported favorably by the following vote: Yeas 9,  
1-5 Nays 1; April 5, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the administration, powers, duties, and operation of  
1-9 the Edwards Aquifer Authority.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1.03, Chapter 626, Acts of the 73rd  
1-12 Legislature, Regular Session, 1993, is amended by amending  
1-13 Subdivisions (6), (9), (10), (20), (21), and (25) and adding  
1-14 Subdivision (28) to read as follows:

1-15 (6) "Commission" means the Texas ~~[Natural Resource~~  
1-16 ~~Conservation]~~ Commission on Environmental Quality.

1-17 (9) "Domestic ~~[or livestock]~~ use" means the use of  
1-18 water for:

1-19 (A) drinking, washing, or culinary purposes;

1-20 (B) irrigation of a family garden or orchard the  
1-21 produce of which is for household consumption only; or

1-22 (C) the watering of residential landscape of  
1-23 one-half acre or less or any other purpose incidental to and  
1-24 associated with domestic activities, provided that the primary  
1-25 purpose of the well is for the purposes of Paragraph (A) [watering  
1-26 of animals].

1-27 (10) "Existing user" means a person who has withdrawn  
1-28 and beneficially used groundwater ~~[underground water]~~ from the  
1-29 aquifer on or before June 1, 1993.

1-30 (20) "Groundwater" means water percolating beneath  
1-31 the surface of the earth ~~["Underground water" has the meaning~~  
1-32 ~~assigned by Section 52.001, Water Code].~~

1-33 (21) "Waste" means:

1-34 (A) withdrawal of groundwater ~~[underground~~  
1-35 ~~water]~~ from the aquifer at a rate and in an amount that causes or  
1-36 threatens to cause intrusion into the reservoir of water unsuitable  
1-37 for agricultural, gardening, domestic, or stock raising purposes;

1-38 (B) the flowing or producing of wells from the  
1-39 aquifer if the water produced is not used for a beneficial purpose;

1-40 (C) escape of groundwater ~~[underground water]~~  
1-41 from the aquifer to any other reservoir that does not contain  
1-42 groundwater ~~[underground water]~~;

1-43 (D) pollution or harmful alteration of  
1-44 groundwater ~~[underground water]~~ in the aquifer by salt water or  
1-45 other deleterious matter admitted from another stratum or from the  
1-46 surface of the ground;

1-47 (E) wilfully or negligently causing, suffering,  
1-48 or permitting groundwater ~~[underground water]~~ from the aquifer to  
1-49 escape into any river, creek, natural watercourse, depression,  
1-50 lake, reservoir, drain, sewer, street, highway, road, or road  
1-51 ditch, or onto any land other than that of the owner of the well  
1-52 unless such discharge is authorized by permit, rule, or order  
1-53 issued by the commission under Chapter 26, Water Code;

1-54 (F) groundwater ~~[underground water]~~ pumped from  
1-55 the aquifer for irrigation that escapes as irrigation tailwater  
1-56 onto land other than that of the owner of the well unless permission  
1-57 has been granted by the occupant of the land receiving the  
1-58 discharge; or

1-59 (G) for water produced from an artesian well,  
1-60 "waste" has the meaning assigned by Section 11.205, Water Code.

1-61 (25) "Withdrawal" means an act or a failure to act that  
1-62 results in taking water from the aquifer by or through man-made  
1-63 facilities, including pumping, withdrawing, or diverting  
1-64 groundwater ~~[underground water]~~.

2-1 (28) "Livestock use" means the use of water for  
 2-2 watering livestock.

2-3 SECTION 2. Section 1.07, Chapter 626, Acts of the 73rd  
 2-4 Legislature, Regular Session, 1993, is amended to read as follows:

2-5 Sec. 1.07. OWNERSHIP OF GROUNDWATER [~~UNDERGROUND WATER~~].  
 2-6 The ownership and rights of the owner of the land and the owner's  
 2-7 lessees and assigns, including holders of recorded liens or other  
 2-8 security interests in the land, in groundwater [~~underground water~~]  
 2-9 and the contract rights of any person who purchases water for the  
 2-10 provision of potable water to the public or for the resale of  
 2-11 potable water to the public for any use are recognized. However,  
 2-12 action taken pursuant to this Act may not be construed as depriving  
 2-13 or divesting the owner or the owner's lessees and assigns,  
 2-14 including holders of recorded liens or other security interests in  
 2-15 the land, of these ownership rights or as impairing the contract  
 2-16 rights of any person who purchases water for the provision of  
 2-17 potable water to the public or for the resale of potable water to  
 2-18 the public for any use, subject to the rules adopted by the  
 2-19 authority [~~or a district exercising the powers provided by Chapter~~  
 2-20 ~~52, Water Code~~]. The legislature intends that just compensation be  
 2-21 paid if implementation of this article causes a taking of private  
 2-22 property or the impairment of a contract in contravention of the  
 2-23 Texas or federal constitution.

2-24 SECTION 3. Subsections (a) and (b), Section 1.08, Chapter  
 2-25 626, Acts of the 73rd Legislature, Regular Session, 1993, are  
 2-26 amended to read as follows:

2-27 (a) The authority has all of the powers, rights, and  
 2-28 privileges necessary to manage, conserve, preserve, and protect the  
 2-29 aquifer and to increase the recharge of, and prevent the waste or  
 2-30 pollution of water in, the aquifer. The authority has all of the  
 2-31 rights, powers, privileges, authority, functions, and duties  
 2-32 provided by the general law of this state, including Chapters 49 and  
 2-33 [50,] 51, [and 52,] Water Code, applicable to an authority created  
 2-34 under Article XVI, Section 59, of the Texas Constitution. This  
 2-35 article prevails over any provision of general law that is in  
 2-36 conflict or inconsistent with this article regarding the area of  
 2-37 the authority's jurisdiction. Chapter 36, Water Code, does not  
 2-38 apply to the authority.

2-39 (b) The authority's powers regarding groundwater  
 2-40 [~~underground water~~] apply only to groundwater [~~underground water~~]  
 2-41 within or withdrawn from the aquifer. This section [~~subsection~~] is  
 2-42 not intended to allow the authority to regulate surface water.

2-43 SECTION 4. Section 1.09, Chapter 626, Acts of the 73rd  
 2-44 Legislature, Regular Session, 1993, is amended by amending  
 2-45 Subsection (d) and adding Subsection (i) to read as follows:

2-46 (d) Section [~~Sections 41.003 and~~] 41.008, Election Code,  
 2-47 does [do] not apply to an election held under this article.

2-48 (i) A member of a governing body of another political  
 2-49 subdivision is ineligible for appointment or election as a director  
 2-50 of the authority. A director of the authority is disqualified and  
 2-51 vacates the office of director if the director is appointed or  
 2-52 elected as a member of the governing body of another political  
 2-53 subdivision.

2-54 SECTION 5. Subsection (h), Section 1.10, Chapter 626, Acts  
 2-55 of the 73rd Legislature, Regular Session, 1993, is amended to read  
 2-56 as follows:

2-57 (h) The presiding officer of the advisory committee shall  
 2-58 submit a report assessing the effectiveness of the authority to the  
 2-59 commission and the authority by December [~~March~~] 31 of each  
 2-60 even-numbered year. The report must assess the effect on  
 2-61 downstream water rights of the management of the aquifer. The  
 2-62 authority shall consider the report in managing the authority's  
 2-63 affairs.

2-64 SECTION 6. Subsections (d) and (g), Section 1.11, Chapter  
 2-65 626, Acts of the 73rd Legislature, Regular Session, 1993, are  
 2-66 amended to read as follows:

2-67 (d) The authority may:

2-68 (1) issue or administer grants, loans, or other  
 2-69 financial assistance to water users for water conservation and

3-1 water reuse;

3-2 (2) enter into contracts;

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

3-4 (4) receive gifts, grants, awards, and loans for use

3-5 in carrying out its powers and duties;

3-6 (5) hire an executive director to be the chief

3-7 administrator of the authority and other employees as necessary to

3-8 carry out its powers and duties;

3-9 (6) delegate the power to hire employees to the

3-10 executive director of the authority;

3-11 (7) own real and personal property;

3-12 (8) close abandoned, wasteful, or dangerous wells;

3-13 (9) hold permits under state law or under federal law

3-14 pertaining to the Endangered Species Act of 1973 (16 U.S.C. Section

3-15 1531 et seq.) and its amendments;

3-16 (10) enforce Chapter 1901 [~~32~~], Occupations Code

3-17 [~~Water Code~~], and Texas Department of Licensing and Regulation

3-18 [~~commission~~] rules adopted under that chapter [~~Act~~] within the

3-19 authority's boundaries; and

3-20 (11) require to be furnished to the authority water

3-21 well drillers' logs that are required by Chapter 1901 [~~32~~],

3-22 Occupations Code [~~Water Code~~], to be kept and furnished to the Texas

3-23 Department of Licensing and Regulation [~~commission~~].

3-24 (g) The authority has the power of eminent domain. The

3-25 authority may not acquire rights to groundwater [~~underground water~~]

3-26 by the power of eminent domain.

3-27 SECTION 7. Section 1.13, Chapter 626, Acts of the 73rd

3-28 Legislature, Regular Session, 1993, is amended to read as follows:

3-29 Sec. 1.13. REUSE AUTHORIZED. Any regulation of the

3-30 withdrawal of water from the aquifer must allow for credit to be

3-31 given for certified reuse of the water. For regulatory credit, the

3-32 authority [~~or a local underground water conservation district~~] must

3-33 certify:

3-34 (1) the lawful use and reuse of aquifer water;

3-35 (2) the amount of aquifer water to be used; and

3-36 (3) the amount of aquifer withdrawals replaced by

3-37 reuse.

3-38 SECTION 8. Subsection (e), Section 1.14, Chapter 626, Acts

3-39 of the 73rd Legislature, Regular Session, 1993, is amended to read

3-40 as follows:

3-41 (e) The authority may not allow withdrawals from the aquifer

3-42 through wells drilled after June 1, 1993, except for replacement

3-43 or [~~]~~ test [~~, or exempt~~] wells or wells exempt under Section 1.33 of

3-44 this article or to the extent that the authority approves an

3-45 amendment to an initial regular permit to authorize a change in the

3-46 point of withdrawal under that permit.

3-47 SECTION 9. Subsections (a), (b), and (d), Section 1.16,

3-48 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,

3-49 are amended to read as follows:

3-50 (a) An existing user may apply for an initial regular permit

3-51 by filing a declaration of historical use of groundwater

3-52 [~~underground water~~] withdrawn from the aquifer during the

3-53 historical period from June 1, 1972, through May 31, 1993.

3-54 (b) An existing user's declaration of historical use must be

3-55 filed on or before December 30, 1996 [~~March 1, 1994~~], on a form

3-56 prescribed by the board. An applicant for a permit must timely pay

3-57 all application fees required by the board. An owner of a well used

3-58 for irrigation must include additional documentation of the number

3-59 of acres irrigated during the historical period provided by

3-60 Subsection (a) of this section.

3-61 (d) The board shall grant an initial regular permit to an

3-62 existing user who:

3-63 (1) files a declaration and pays fees as required by

3-64 this section; and

3-65 (2) establishes by convincing evidence beneficial use

3-66 of groundwater [~~underground water~~] from the aquifer.

3-67 SECTION 10. Subsections (a) and (d), Section 1.17, Chapter

3-68 626, Acts of the 73rd Legislature, Regular Session, 1993, are

3-69 amended to read as follows:

4-1 (a) A person who, on the effective date of this article,  
4-2 owns a producing well that withdraws water from the aquifer may  
4-3 continue to withdraw and beneficially use water without waste until  
4-4 final action on permits by the authority, if:

4-5 (1) the well is in compliance with all statutes and  
4-6 rules relating to well construction, approval, location, spacing,  
4-7 and operation; and

4-8 (2) by December 30, 1996 [~~March 1, 1994~~], the person  
4-9 files a declaration of historical use on a form as required by the  
4-10 authority.

4-11 (d) Interim authorization for a well under this section ends  
4-12 on:

4-13 (1) entry of a final and appealable order by the  
4-14 authority acting on the application for the well; or

4-15 (2) December 30, 1996 [~~March 1, 1994~~], if the well  
4-16 owner has not filed a declaration of historical use.

4-17 SECTION 11. Article 1, Chapter 626, Acts of the 73rd  
4-18 Legislature, Regular Session, 1993, is amended by adding Sections  
4-19 1.21 and 1.211 to read as follows:

4-20 Sec. 1.21. CONTESTED CASE HEARINGS; REQUEST FOR REHEARING  
4-21 OR FINDINGS AND CONCLUSIONS. (a) The authority, by rule, shall

4-22 define under what circumstances an application is considered  
4-23 contested and shall limit participation in a hearing on a contested  
4-24 application held in accordance with authority rules to persons who  
4-25 have a personal justiciable interest related to a legal right,  
4-26 duty, privilege, power, or economic interest affected by an  
4-27 application, not including persons who have an interest common to  
4-28 members of the public.

4-29 (b) Except as provided by Subsection (c) of this section, an  
4-30 applicant or a party to a contested hearing may file a request for  
4-31 rehearing not later than the 20th day after the date of the board's  
4-32 decision.

4-33 (c) An applicant or a party to a contested hearing may  
4-34 request written findings of fact and conclusions of law not later  
4-35 than the 20th day after the date of the board's decision on the  
4-36 application. On receipt of a timely filed written request under  
4-37 this subsection, the board shall make written findings of fact and  
4-38 conclusions of law regarding a decision of the board on the  
4-39 application. The board shall provide copies of the findings of fact  
4-40 and conclusions of law to the person who requested them, and to each  
4-41 person who provided comments at the initial hearing or each  
4-42 designated party, not later than the 35th day after the date the  
4-43 board received the request. A person who receives a copy of the  
4-44 findings of fact and conclusions of law from the board may request a  
4-45 rehearing before the board not later than the 20th day after the  
4-46 date the board issues the findings of fact and conclusions of law.

4-47 (d) A request for rehearing on a contested matter must be  
4-48 filed in the authority's office and must state the grounds for the  
4-49 request.

4-50 (e) If the board grants a request for rehearing, the board  
4-51 shall schedule the rehearing not later than the 45th day after the  
4-52 date the request is granted.

4-53 (f) The failure of the board to grant or deny a request for  
4-54 rehearing before the 91st day after the date the request is  
4-55 submitted constitutes a denial of the request.

4-56 Sec. 1.211. APPLICATION DECISION; WHEN FINAL. (a) A  
4-57 decision by the board on an application is final:

4-58 (1) if a request for rehearing is not timely filed, on  
4-59 the expiration of the period for filing a request for rehearing; or

4-60 (2) if a request for rehearing is timely filed, on the  
4-61 date:

4-62 (A) the board denies the request for rehearing;

4-63 or

4-64 (B) the board renders a written decision after  
4-65 rehearing.

4-66 (b) A timely filed motion for rehearing challenging a  
4-67 decision in a contested hearing is a prerequisite to a suit against  
4-68 the authority under Section 1.46 of this article. A suit under that  
4-69 section may be filed not later than the 60th day after the date on

5-1 which the decision becomes final.

5-2 SECTION 12. Subsection (b), Section 1.22, Chapter 626, Acts  
5-3 of the 73rd Legislature, Regular Session, 1993, is amended to read  
5-4 as follows:

5-5 (b) The authority may acquire, ~~and~~ hold, and transfer  
5-6 permits or rights to appropriate surface water or groundwater from  
5-7 sources inside or outside of the authority's boundaries. The  
5-8 authority may transport and distribute surface water or groundwater  
5-9 as necessary to accomplish the powers and duties authorized by this  
5-10 article or other applicable law.

5-11 SECTION 13. Section 1.25, Chapter 626, Acts of the 73rd  
5-12 Legislature, Regular Session, 1993, is amended to read as follows:

5-13 Sec. 1.25. COMPREHENSIVE MANAGEMENT PLAN. (a) Consistent  
5-14 with Section 1.14 of this article, the authority shall develop~~[, by~~  
5-15 ~~September 1, 1995,]~~ and implement a comprehensive water management  
5-16 plan that includes conservation, future supply, and demand  
5-17 management plans. The authority may not delegate the development  
5-18 of the plan under Section 1.42 of this article.

5-19 (b) The authority, in conjunction with the South Central  
5-20 Texas Water Advisory Committee, the Texas Water Development Board,  
5-21 and groundwater ~~[underground water]~~ conservation districts within  
5-22 the authority's boundaries, shall develop a 20-year plan for  
5-23 providing alternative supplies of water to the region, with  
5-24 five-year goals and objectives, to be implemented by the authority  
5-25 and reviewed annually by the appropriate state agencies ~~[and the~~  
5-26 ~~Edwards Aquifer Legislative Oversight Committee]~~. The authority,  
5-27 advisory committee, Texas Water Development Board, and districts,  
5-28 in developing the plan, shall:

5-29 (1) thoroughly investigate all alternative  
5-30 technologies;

5-31 (2) investigate mechanisms for providing financial  
5-32 assistance for alternative supplies through the Texas Water  
5-33 Development Board; and

5-34 (3) perform a cost-benefit analysis and an  
5-35 environmental analysis.

5-36 SECTION 14. Section 1.26A, Chapter 626, Acts of the 73rd  
5-37 Legislature, Regular Session, 1993, is amended by adding Subsection  
5-38 (r) to read as follows:

5-39 (r) After the authority receives the program document  
5-40 produced in accordance with this section, the steering committee  
5-41 may transfer the administration of the recovery implementation  
5-42 program to any entity that the steering committee considers  
5-43 suitable for the administration and performance of the program's  
5-44 continuing functions. The transfer may include all files, records,  
5-45 personal property, contracts, unobligated and unexpended money,  
5-46 and staff, including the program manager.

5-47 SECTION 15. Subsections (f) through (i), Section 1.29,  
5-48 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,  
5-49 are amended to read as follows:

5-50 (f) In addition to the fees assessed under Subsection (b) of  
5-51 this section, the authority may assess fees to recover  
5-52 administrative costs such as filing and processing applications and  
5-53 registrations. The fees may not unreasonably exceed the  
5-54 administrative costs ~~[The authority shall impose a permit~~  
5-55 ~~application fee not to exceed \$25].~~

5-56 (g) ~~[The authority may impose a registration application~~  
5-57 ~~fee not to exceed \$10.~~

5-58 ~~[(h)]~~ Fees assessed by the authority may not be used to fund  
5-59 the cost of reducing withdrawals or retiring permits or of  
5-60 judgments or claims related to withdrawals or permit retirements.

5-61 (h) ~~[(i)]~~ The authority and other stakeholders, including  
5-62 state agencies, listed under Section 1.26A of this article shall  
5-63 provide money as necessary to finance the activities of the  
5-64 steering committee and any subcommittees appointed by the steering  
5-65 committee and the program director of the recovery implementation  
5-66 program under Section 1.26A of this article. The authority shall  
5-67 provide, as necessary, up to \$75,000 annually, adjusted for changes  
5-68 in the consumer price index, to finance the South Central Texas  
5-69 Water Advisory Committee's administrative expenses and programs

6-1 authorized under this article.

6-2 SECTION 16. Subsection (e), Section 1.30, Chapter 626, Acts  
6-3 of the 73rd Legislature, Regular Session, 1993, is amended to read  
6-4 as follows:

6-5 (e) Section [Sections 11.028 and] 11.033, Water Code, does  
6-6 [do] not apply to a permit issued under this section.

6-7 SECTION 17. Subsection (b), Section 1.31, Chapter 626, Acts  
6-8 of the 73rd Legislature, Regular Session, 1993, is amended to read  
6-9 as follows:

6-10 (b) The authority is responsible for the costs of  
6-11 purchasing, installing, and maintaining measuring devices, if  
6-12 required, for an irrigation well in existence on June 28, 1996  
6-13 [September 1, 1993].

6-14 SECTION 18. Section 1.33, Chapter 626, Acts of the 73rd  
6-15 Legislature, Regular Session, 1993, is amended to read as follows:

6-16 Sec. 1.33. WELL METERING EXEMPTION. (a) Except as  
6-17 provided by Subsections (d) and (e) of this section, a [A] well that  
6-18 is drilled, completed, or equipped so that it is incapable of  
6-19 producing more than [produces] 25,000 gallons of water per [a] day  
6-20 and is and will be used exclusively [or less] for domestic use or  
6-21 livestock use is exempt from metering and withdrawal permit  
6-22 requirements.

6-23 (b) A well drilled on or before June 1, 2011, that is  
6-24 incapable of producing more than 1,250 gallons of water per day or  
6-25 that is metered and does not produce more than 1,250 gallons of  
6-26 water per day for any purpose authorized in this article is exempt  
6-27 from withdrawal permit requirements. Multiple wells may not be  
6-28 used in combination in a manner to satisfy a single water use or  
6-29 purpose, that when combined, would not come within the requirements  
6-30 of this subsection.

6-31 (c) A well that is exempt under Subsection (a) or (b) of this  
6-32 section [Exempt wells] must be registered [register] with the  
6-33 authority [or with an underground water conservation district in  
6-34 which the well is located].

6-35 (d) [(-c)] A well that meets the requirements of Subsection  
6-36 (a) of this section [within or serving a subdivision requiring  
6-37 planning] does not qualify for an exemption if the well:

6-38 (1) serves a subdivision of land requiring plat  
6-39 approval under Chapter 232, Local Government Code;

6-40 (2) supplies water to a public water system as defined  
6-41 by 30 T.A.C. Section 290.38; or

6-42 (3) produces groundwater for domestic use, was drilled  
6-43 on or before June 1, 2011, and is on a tract of land with a residence  
6-44 that receives water service from a retail public utility as defined  
6-45 by Section 13.002, Water Code [exempt use].

6-46 (e) A well drilled after June 1, 2011, that meets the  
6-47 requirements of Subsection (a) of this section, is exempt from  
6-48 metering and withdrawal permit requirements only if the well is on a  
6-49 tract of land larger than 10 acres.

6-50 SECTION 19. Article 1, Chapter 626, Acts of the 73rd  
6-51 Legislature, Regular Session, 1993, is amended by adding Section  
6-52 1.361 to read as follows:

6-53 Sec. 1.361. ABANDONED, OPEN, UNCOVERED, OR DETERIORATED  
6-54 WELLS. (a) If the owner or lessee of land on which an abandoned,  
6-55 open, uncovered, or deteriorated well is located fails or refuses  
6-56 to close, cap, or plug the well in compliance with Chapter 1901,  
6-57 Occupations Code, and the authority's rules, the authority or its  
6-58 authorized employees, representatives, or agents may enter the land  
6-59 and close, cap, or plug the well in a safe and secure manner.

6-60 (b) Reasonable expenses incurred by the authority in  
6-61 closing, capping, or plugging a well constitute a lien on the land  
6-62 on which the well is located.

6-63 (c) A lien described by Subsection (b) of this section  
6-64 arises and attaches after an affidavit executed by any person with  
6-65 knowledge of the facts of the closing, capping, or plugging is  
6-66 recorded in the deed records of the county where the well is  
6-67 located. The affidavit must contain:

6-68 (1) a statement or photograph confirming the existence  
6-69 of the well;

- 7-1 (2) the legal description of the property on which the
- 7-2 well is located;
- 7-3 (3) a description of the approximate location of the
- 7-4 well on the property;
- 7-5 (4) a statement confirming the failure or refusal of
- 7-6 the owner or lessee, after notification, to close or cap the well
- 7-7 within 10 days after the notification, or to plug the well within
- 7-8 180 days after notification, as required by the authority's rules;
- 7-9 (5) a statement confirming the closing, capping, or
- 7-10 plugging of the well by the authority, or by an authorized agent,
- 7-11 representative, or employee of the authority; and
- 7-12 (6) a statement of the expenses incurred by the
- 7-13 authority in closing, capping, or plugging the well.

7-14 (d) Nothing in this section affects the enforcement of

7-15 Subchapter A, Chapter 756, Health and Safety Code.

7-16 SECTION 20. Subsections (j), (n), and (r), Section 1.37,  
7-17 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,  
7-18 are amended to read as follows:  
7-19 (j) Within 30 days after the date the authority's order is  
7-20 final as provided by Section 2001.144(a), Government Code  
7-21 [Subsection (c), Section 16, Administrative Procedure and Texas  
7-22 Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)],  
7-23 the person shall:

- 7-24 (1) pay the amount of the penalty;
- 7-25 (2) pay the amount of the penalty and file a petition
- 7-26 for judicial review contesting the occurrence of the violation, the
- 7-27 amount of the penalty, or both the occurrence of the violation and
- 7-28 the amount of the penalty; or

- 7-29 (3) without paying the amount of the penalty, file a
- 7-30 petition for judicial review contesting the occurrence of the
- 7-31 violation, the amount of the penalty, or both the occurrence of the
- 7-32 violation and the amount of the penalty.

7-33 (n) Judicial review of the order of the authority:  
7-34 (1) is instituted by filing a petition as provided by  
7-35 Subchapter G, Chapter 2001, Government Code [Section 19,  
7-36 Administrative Procedure and Texas Register Act (Article 6252-13a,  
7-37 Vernon's Texas Civil Statutes)]; and

7-38 (2) is under the substantial evidence rule.  
7-39 (r) All proceedings under this section are subject to  
7-40 Chapter 2001, Government Code [the Administrative Procedure and  
7-41 Texas Register Act (Article 6252-13a, Vernon's Texas Civil  
7-42 Statutes)].

7-43 SECTION 21. Section 1.38, Chapter 626, Acts of the 73rd  
7-44 Legislature, Regular Session, 1993, is amended to read as follows:

7-45 Sec. 1.38. INJUNCTION BY AUTHORITY. (a) The authority may  
7-46 file a civil suit in a state district court for an injunction or  
7-47 mandatory injunction to enforce this article. The authority may  
7-48 recover reasonable attorney fees in a suit under this section.

7-49 (b) In an enforcement action by the authority against a  
7-50 governmental entity for a violation of authority rules, the limits  
7-51 on the amount of fees, costs, and penalties that the authority may  
7-52 impose under this section constitute a limit of the governmental  
7-53 entity's liability for the violation. This subsection shall not be  
7-54 construed to prohibit the recovery by the authority of fees and  
7-55 costs under this article in an action against a governmental  
7-56 entity.

7-57 SECTION 22. Subsections (a), (b), and (c), Section 1.42,  
7-58 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,  
7-59 are amended to read as follows:

7-60 (a) A groundwater [An underground water] conservation  
7-61 district other than the authority may manage and control water that  
7-62 is a part of the aquifer after the effective date of this article  
7-63 only as provided in this section. This article does not affect a  
7-64 water reclamation or conservation district that manages and  
7-65 controls only water from a resource other than the aquifer.

7-66 (b) A groundwater [An underground water] conservation  
7-67 district other than the authority may manage and control water that  
7-68 is a part of the aquifer to the extent that those management  
7-69 activities do not conflict with and are not duplicative of this

8-1 article or the rules and orders of the authority.

8-2 (c) Except as otherwise provided by this article, the board  
8-3 may delegate the powers and duties granted to it under this article.  
8-4 The board shall delegate all or part of its powers or duties to a  
8-5 groundwater [~~an underground water~~] conservation district on the  
8-6 district's request if the district demonstrates to the satisfaction  
8-7 of the board that:

8-8 (1) the district has statutory powers necessary for  
8-9 full enforcement of the rules and orders to be delegated;

8-10 (2) the district has implemented all rules and  
8-11 policies necessary to fully implement the programs to be delegated;  
8-12 and

8-13 (3) the district has implemented a system designed to  
8-14 provide the authority with adequate information with which to  
8-15 monitor the adequacy of the district's performance in enforcing  
8-16 board rules and orders.

8-17 SECTION 23. Section 1.43, Chapter 626, Acts of the 73rd  
8-18 Legislature, Regular Session, 1993, is amended to read as follows:

8-19 Sec. 1.43. CREATION OF GROUNDWATER [~~UNDERGROUND WATER~~]  
8-20 CONSERVATION DISTRICT. A groundwater [~~An underground water~~]  
8-21 conservation district may be created in any county affected by this  
8-22 article as provided by Subchapter B, Chapter 36 [~~52~~], Water Code.

8-23 SECTION 24. Article 1, Chapter 626, Acts of the 73rd  
8-24 Legislature, Regular Session, 1993, is amended by adding Section  
8-25 1.46 to read as follows:

8-26 Sec. 1.46. SUITS. (a) An affected person dissatisfied  
8-27 with any authority rule, order, or act is entitled to file suit  
8-28 against the authority or its directors to challenge the validity of  
8-29 the rule, order, or act. The suit may be filed in any county in  
8-30 which the authority is located. The suit may be filed only after  
8-31 all administrative appeals to the authority are final. The burden  
8-32 of proof is on the petitioner, and the challenged rule, order, or  
8-33 act shall be deemed prima facie valid. The review on appeal is  
8-34 governed by Section 2001.038 or 2001.174, Government Code, as  
8-35 appropriate.

8-36 (b) If the authority prevails in a suit to enforce this  
8-37 article or its rules, orders, or acts, or in a suit other than a suit  
8-38 in which it voluntarily intervenes, the authority may seek and the  
8-39 court shall grant, in the same action, recovery for attorney's  
8-40 fees, costs for expert witnesses, and other costs incurred by the  
8-41 authority before the court. The court shall set the amount of the  
8-42 attorney's fees.

8-43 SECTION 25. Section 4.02, Chapter 626, Acts of the 73rd  
8-44 Legislature, Regular Session, 1993, is transferred to Article 1 of  
8-45 that Act, redesignated as Section 1.47, and amended to read as  
8-46 follows:

8-47 Sec. 1.47 [~~4.02~~]. ORIGINAL EFFECTIVE DATES. This Act takes  
8-48 effect June 28 [~~September 1~~], 1993, except Section 1.35 of Article 1  
8-49 takes effect December 30, 1996 [~~March 1, 1994~~].

8-50 SECTION 26. Section 3.02, Chapter 626, Acts of the 73rd  
8-51 Legislature, Regular Session, 1993, is amended to read as follows:

8-52 Sec. 3.02. NOTICE OF AVAILABLE WATER. The Texas [~~Natural~~  
8-53 ~~Resource Conservation~~] Commission on Environmental Quality shall  
8-54 notify the Edwards Aquifer Authority of any water available for  
8-55 appropriation in the Guadalupe-Blanco River Basin as the commission  
8-56 discovers the available water.

8-57 SECTION 27. Subsection (e), Section 36.205, Water Code, is  
8-58 amended to read as follows:

8-59 (e) Subsection (c) does not apply to the following  
8-60 districts:

8-61 (1) [~~the Edwards Aquifer Authority,~~  
8-62 [~~2~~]] the Fort Bend Subsidence District;  
8-63 (2) [~~3~~] the Harris-Galveston Coastal Subsidence  
8-64 District;

8-65 (3) [~~4~~] the Barton Springs-Edwards Aquifer  
8-66 Conservation District; or

8-67 (4) [~~5~~] any district that collects a property tax  
8-68 and that was created before September 1, 1999, unless otherwise  
8-69 authorized by special law.



9-1 SECTION 28. The following laws are repealed:

9-2 (1) Subsection (d), Section 1.41, and Section 3.01,  
9-3 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;  
9-4 and

9-5 (2) Subsection (1), Section 36.101, Subsection (e),  
9-6 Section 36.1011, and Section 36.419, Water Code.

9-7 SECTION 29. (a) The legal notice of the intention to  
9-8 introduce this Act, setting forth the general substance of this  
9-9 Act, has been published as provided by law, and the notice and a  
9-10 copy of this Act have been furnished to all persons, agencies,  
9-11 officials, or entities to which they are required to be furnished  
9-12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
9-13 Government Code.

9-14 (b) The governor, one of the required recipients, has  
9-15 submitted the notice and Act to the Texas Commission on  
9-16 Environmental Quality.

9-17 (c) The Texas Commission on Environmental Quality has filed  
9-18 its recommendations relating to this Act with the governor, the  
9-19 lieutenant governor, and the speaker of the house of  
9-20 representatives within the required time.

9-21 (d) All requirements of the constitution and laws of this  
9-22 state and the rules and procedures of the legislature with respect  
9-23 to the notice, introduction, and passage of this Act are fulfilled  
9-24 and accomplished.

9-25 SECTION 30. This Act takes effect immediately if it  
9-26 receives a vote of two-thirds of all the members elected to each  
9-27 house, as provided by Section 39, Article III, Texas Constitution.  
9-28 If this Act does not receive the vote necessary for immediate  
9-29 effect, this Act takes effect September 1, 2011.

9-30

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