

BILL ANALYSIS

S.B. 1241
By: Hegar
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Edwards Aquifer Authority Act narrowly defines exempt wells and the uses that provide for exempt well status. At times, implementation of the statutory language has the potential to create unintended burdens on the regulated community that do not serve the intent behind the creation of the Act.

S.B. 1241 provides the Edwards Aquifer Authority (EAA) the ability to exercise a more pragmatic exempt well determination process and adds reasonable flexibility to its current permitting program. The bill also provides the regulated community with an unambiguous permitting system proposed as follows:

- Wells within a subdivision requiring platting: Removing the prohibition for an exempt well located within a subdivision requiring platting will simplify EAA rules by streamlining the current analysis for exempt status wells. The current process has the potential to occasionally result in the denial of exempt well status due to legal requirements not associated with actual water use. Of note, the EAA is the only water-related regulatory authority in Texas that has this type of prohibition in its enabling legislation.
- *De minimis* use: Creation of an exception for existing groundwater users with minimal yearly pumping, regardless of type of use, will add needed flexibility to permitting decisions for existing Edwards Aquifer well owners. The current system has the potential to lead to unanticipated, burdensome requirements for persons or entities that use a negligible amount of Edwards groundwater. In such cases, the requirements contained in the current permitting process may outweigh the positive intent behind the EAA's general permitting requirements. The exception is limited to existing users because, prior to drilling a new Edwards Aquifer well, new users are made aware of the EAA permitting requirements and can make informed decisions before moving forward. Additionally, the impact of current *de minimis* uses on springflow and aquifer levels has already been recognized and accounted for in the approved Edwards Aquifer Habitat Conservation Plan and in EAA groundwater planning.

As proposed, S.B. 1241 amends current law relating to the Edwards Aquifer Authority's regulation of wells with limited production capabilities.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 1.33, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Subsection (c) and adding Subsection (d), as follows:

- (c) Provides that a well serving, rather than a well within or serving, a subdivision requiring platting does not qualify for an exempt use.

(d) Provides that a well drilled on or before June 1, 2013, for any purpose authorized under this article is exempt from the requirement to obtain a withdrawal permit provided that the well is not capable of producing more than 1,250 gallons of water a day or is metered and does not produce more than 1.4 acre-feet of water in a calendar year.

SECTION 2. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect September 1, 2013.