

By: Rodriguez of Travis

H.B. No. 340

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the power of the Texas Commission on Environmental  
3 Quality to authorize certain injection wells that transect or  
4 terminate in the Edwards Aquifer.

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

6 SECTION 1. Subchapter D, Chapter 27, Water Code, is amended  
7 by adding Section 27.0516 to read as follows:

8 Sec. 27.0516. PERMITS FOR INJECTION WELLS THAT TRANSECT OR  
9 TERMINATE IN PORTION OF EDWARDS AQUIFER WITHIN EXTERNAL BOUNDARIES  
10 OF BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT. (a) In  
11 this section:

12 (1) "Edwards Aquifer" means that portion of an arcuate  
13 belt of porous, waterbearing limestones composed of the Edwards  
14 Formation, Georgetown Formation, Comanche Peak Formation, Salmon  
15 Peak Limestone, McKnight Formation, West Nueces Formation, Devil's  
16 River Limestone, Person Formation, Kainer Formation, and Edwards  
17 Group trending from west to east to northeast through Kinney,  
18 Uvalde, Medina, Bexar, Kendall, Comal, Hays, Travis, and Williamson  
19 Counties. The permeable aquifer units generally overlie the  
20 less-permeable Glen Rose Formation to the south, overlie the  
21 less-permeable Comanche Peak and Walnut Formations north of the  
22 Colorado River, and underlie the less-permeable Del Rio Clay  
23 regionally.

24 (2) "Engineered aquifer storage and recovery

1 facility" means a facility with one or more wells that is located,  
2 designed, constructed, and operated for the purpose of injecting  
3 fresh water into a subsurface permeable stratum and storing the  
4 water for subsequent withdrawal and use for a beneficial purpose.

5 (3) "Fresh water" means surface water or groundwater,  
6 without regard to whether the water has been physically,  
7 chemically, or biologically altered, that:

8 (A) contains a total dissolved solids  
9 concentration of not more than 1,000 milligrams per liter; and

10 (B) is otherwise suitable as a source of drinking  
11 water supply.

12 (4) "Saline portion of the Edwards Aquifer" means the  
13 portion of the Edwards Aquifer that contains only groundwater with  
14 a total dissolved solids concentration of more than 1,000  
15 milligrams per liter.

16 (b) This section applies only to the portion of the Edwards  
17 Aquifer that is within the geographic area circumscribed by the  
18 external boundaries of the Barton Springs-Edwards Aquifer  
19 Conservation District but is not in that district's territory or  
20 the territory of the Edwards Aquifer Authority.

21 (c) This section prevails over Section 27.051(i) to the  
22 extent of a conflict.

23 (d) Except as otherwise provided by this section, the  
24 commission by rule or permit may not authorize an injection well  
25 that transects or terminates in the Edwards Aquifer.

26 (e) The commission by rule may authorize:

27 (1) the injection of fresh water withdrawn from the

1 Edwards Aquifer into a well that transects or terminates in the  
2 Edwards Aquifer for the purpose of providing additional recharge;  
3 or

4 (2) the injection of rainwater, storm water, flood  
5 water, or groundwater into the Edwards Aquifer by means of an  
6 improved natural recharge feature such as a sinkhole or cave  
7 located in a karst topographic area for the purpose of providing  
8 additional recharge.

9 (f) The commission by general permit may authorize:

10 (1) an activity described by Subsection (e);

11 (2) an injection well that transects and isolates the  
12 saline portion of the Edwards Aquifer and terminates in a lower  
13 aquifer for the purpose of injecting:

14 (A) concentrate from a desalination facility; or

15 (B) fresh water as part of an engineered aquifer  
16 storage and recovery facility;

17 (3) an injection well that terminates in that part of  
18 the saline portion of the Edwards Aquifer that has a total dissolved  
19 solids concentration of more than 10,000 milligrams per liter for  
20 the purpose of injecting into the saline portion of the Edwards  
21 Aquifer:

22 (A) concentrate from a desalination facility,  
23 provided that the injection well must be at least three miles from  
24 the closest outlet of Barton Springs; or

25 (B) fresh water as part of an engineered aquifer  
26 and storage recovery facility, provided that each well used for  
27 injection or withdrawal from the facility must be at least three

1 miles from the closest outlet of Barton Springs; or

2 (4) an injection well that transects or terminates in  
3 the Edwards Aquifer for:

4 (A) aquifer remediation;

5 (B) the injection of a nontoxic tracer dye as  
6 part of a hydrologic study; or

7 (C) another beneficial activity that is designed  
8 and undertaken for the purpose of increasing protection of an  
9 underground source of drinking water from pollution or other  
10 deleterious effects.

11 (g) The commission must hold a public meeting before issuing  
12 a general permit under this section.

13 (h) Rules adopted or a general permit issued under this  
14 section:

15 (1) must require that an injection well authorized by  
16 the rules or permit be monitored by means of:

17 (A) a monitoring well operated by the injection  
18 well owner if the commission determines that there is an  
19 underground source of drinking water in the area of review that is  
20 potentially affected by the injection well; or

21 (B) if Paragraph (A) does not apply, a monitoring  
22 well operated by a party other than the injection well owner,  
23 provided that all results of monitoring are promptly made available  
24 to the injection well owner;

25 (2) must ensure that an authorized activity will not  
26 result in the waste or pollution of fresh water;

27 (3) may not authorize an injection well under

1 Subsection (f)(2) or (3) unless the well is initially associated  
2 with a small-scale research project designed to evaluate the  
3 long-term feasibility and safety of:

4 (A) the injection of concentrate from a  
5 desalination facility; or

6 (B) an aquifer storage and recovery project;

7 (4) must require any authorization granted to be  
8 renewed at least as frequently as every 10 years;

9 (5) must require that an injection well authorized  
10 under Subsection (f)(2)(A) or (3)(A) be monitored on an ongoing  
11 basis by or in coordination with the well owner and that the well  
12 owner file monitoring reports with the commission at least as  
13 frequently as every three months; and

14 (6) must ensure that any injection well authorized for  
15 the purpose of injecting concentrate from a desalination facility  
16 does not transect the fresh water portion of the Edwards Aquifer.

17 (i) A monitoring well described by Subsection (h)(1), if  
18 properly sited and completed, may also be used for monitoring a  
19 saline water production well.

20 (j) A project is considered to be a small-scale research  
21 project for purposes of Subsection (h)(3) if the project consists  
22 of one production well and one injection well that are operated on a  
23 limited scale to provide requisite scientific and engineering  
24 information. Such a project is considered to be a small-scale  
25 research project regardless of the borehole size of the wells or the  
26 equipment associated with the wells or whether the wells are  
27 subsequently incorporated into a larger-scale commercial facility.

1       (k) Notwithstanding Subsection (h)(3), a general permit may  
2 authorize the owner of an injection well authorized under  
3 Subsection (f)(2) or (3) to continue operating the well for the  
4 purpose of implementing the desalination or engineered aquifer  
5 storage and recovery project following completion of the  
6 small-scale research project, provided that:

7           (1) the injection well owner timely submits the  
8 information collected as part of the research project, including  
9 monitoring reports and information regarding the environmental  
10 impact of the well, to the commission;

11           (2) the injection well owner, following the completion  
12 of studies and monitoring adequate to characterize risks to the  
13 fresh water portion of the Edwards Aquifer and other fresh water  
14 associated with the continued operation of the well, and at least 90  
15 days before the date the owner initiates commercial well  
16 operations, files with the commission a notice of intent to  
17 continue operation of the well after completion of the research  
18 project; and

19           (3) the commission, based on the studies and  
20 monitoring, the report provided by Texas State University--San  
21 Marcos under Subsection (1)(2), and any other reasonably available  
22 information, determines that continued operation of the injection  
23 well as described in the notice of intent does not pose an  
24 unreasonable risk to the fresh water portion of the Edwards Aquifer  
25 or other fresh water associated with the continued operation of the  
26 well.

27       (1) Before the commission makes a determination under

1 Subsection (k)(3):

2 (1) the commission, not later than the 15th day after  
3 the date of receipt of the results of the studies and monitoring,  
4 must provide the information received to Texas State  
5 University--San Marcos; and

6 (2) Texas State University--San Marcos, not later than  
7 the 60th day after the date of receipt of the information, must  
8 review and analyze the information and report its findings to the  
9 commission.

10 (m) The commission shall make the information provided by  
11 the owner of the injection well under Subsection (k)(1) and the  
12 report provided by Texas State University--San Marcos under  
13 Subsection (l)(2) easily accessible to the public in a timely  
14 manner. The permit may authorize the owner of the well to continue  
15 operating the well following completion of the research project  
16 pending the determination by the commission.

17 (n) If the commission preliminarily determines that  
18 continued operation of the injection well would pose an  
19 unreasonable risk to the fresh water portion of the Edwards Aquifer  
20 or other fresh water associated with the continued operation of the  
21 well, the commission shall notify the operator and specify, if  
22 possible, what well modifications would be adequate to prevent that  
23 unreasonable risk. If the operator fails to modify the injection  
24 well as specified by the commission, the commission shall require  
25 the operator to cease operating the well.

26 SECTION 2. This Act takes effect September 1, 2013.