

AN ACT

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

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

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

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

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

(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 (l)(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 (l) 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.

S.B. No. 1532

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1532 passed the Senate on April 23, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1532 passed the House on May 14, 2013, by the following vote: Yeas 143, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor