

By: Creighton

S.B. No. 1724

A BILL TO BE ENTITLED

AN ACT

relating to the storage and recovery of water in aquifers;
authorizing fees and surcharges.

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

SECTION 1. Sections 11.153(a), (b), and (c), Water Code,
are amended to read as follows:

(a) In this section, "aquifer storage and recovery project"
has the meaning assigned by Section 27.151 [~~The commission shall~~
~~investigate the feasibility of storing appropriated water in~~
~~various types of aquifers around the state by encouraging the~~
~~issuance of temporary or term permits for demonstration projects~~
~~for the storage of appropriated water for subsequent retrieval and~~
~~beneficial use~~].

(b) A water right holder may undertake an aquifer storage
and recovery project without obtaining any additional
authorization under this chapter for the project. A water right
holder undertaking an aquifer storage and recovery project must:

(1) obtain any required authorizations under
Subchapter G, Chapter 27, and Subchapter N, Chapter 36; and

(2) comply with the terms of the water right holder's
water right [~~A permit described by Subsection (a) must be for only~~
~~the duration of the pilot project to provide the commission and the~~
~~board further opportunity to evaluate the storage of appropriated~~
~~water in aquifers for subsequent retrieval and beneficial use~~].

1 (c) This section does not preclude the commission from
2 considering an aquifer storage and recovery project to be a
3 component of a project permitted under this chapter that is not
4 required to be based on the continuous availability of historic,
5 normal stream flow [~~At the conclusion of a pilot project, a permit~~
6 ~~holder may file an appropriate application for a permit or permit~~
7 ~~amendment. After considering the success of the project and the~~
8 ~~criteria set out in Section 11.154, the commission shall determine~~
9 ~~whether to issue a permit or permit amendment authorizing the~~
10 ~~continued storage of appropriated water in the aquifer].~~

11 SECTION 2. Chapter 27, Water Code, is amended by adding
12 Subchapter G to read as follows:

13 SUBCHAPTER G. AQUIFER STORAGE AND RECOVERY PROJECTS

14 Sec. 27.151. DEFINITIONS. In this subchapter:

15 (1) "Aquifer storage and recovery project" means a
16 project involving the injection of water into a geologic formation
17 for subsequent recovery and beneficial use.

18 (2) "ASR injection well" means a well used for the
19 injection of water into a geologic formation as part of an aquifer
20 storage and recovery project.

21 (3) "ASR recovery well" means a well used for the
22 recovery of water from a geologic formation as part of an aquifer
23 storage and recovery project.

24 (4) "Project operator" means a person holding an
25 authorization under this subchapter to undertake an aquifer storage
26 and recovery project.

27 Sec. 27.152. JURISDICTION. The commission has exclusive

1 jurisdiction over the regulation and permitting of ASR injection
2 wells.

3 Sec. 27.153. AUTHORIZATION FOR USE OF CLASS V INJECTION
4 WELLS. (a) The commission may authorize the use of a Class V
5 injection well as an ASR injection well:

- 6 (1) by rule;
- 7 (2) under an individual permit; or
- 8 (3) under a general permit.

9 (b) In adopting a rule or issuing a permit under this
10 section, the commission shall consider:

11 (1) whether the injection of water will comply with
12 the standards set forth under the federal Safe Drinking Water Act
13 (42 U.S.C. Section 300f et seq.);

14 (2) the extent to which the cumulative volume of water
15 injected for storage in the receiving geologic formation can be
16 successfully recovered from the geologic formation for beneficial
17 use, taking into account that injected water may be commingled to
18 some degree with groundwater native to the receiving geologic
19 formation;

20 (3) the effect of the aquifer storage and recovery
21 project on existing water wells; and

22 (4) the potential for groundwater quality
23 degradation.

24 (c) All wells associated with a single aquifer storage and
25 recovery project must be located within a continuous perimeter
26 boundary of one parcel of land, or two or more adjacent parcels of
27 land under common ownership, lease, joint operating agreement, or

1 contract.

2 (d) The commission by rule shall provide for public notice
3 and comment on a proposed general permit authorized under this
4 section. The commission shall require an applicant for an
5 individual permit authorized under this section to provide notice
6 of the application by first class mail to any groundwater
7 conservation district in which the wells associated with the
8 aquifer storage and recovery project will be located and by
9 publishing notice in a newspaper of general circulation in the
10 county in which the wells will be located.

11 Sec. 27.154. TECHNICAL STANDARDS. (a) The commission shall
12 adopt technical standards governing the approval of the use of a
13 Class V injection well as an ASR injection well.

14 (b) The commission shall limit the volume of water that may
15 be recovered by an aquifer storage and recovery project to an amount
16 that does not exceed the amount of water injected under the project.
17 If the commission determines that the proposed injection of water
18 into a geologic formation will result in a loss of injected water or
19 native water from the formation, the commission shall impose
20 additional restrictions on the amount of water that may be
21 recovered to account for the loss. The commission may not deny a
22 permit based on a determination that a loss described by this
23 subsection will occur.

24 (c) The commission by rule shall prescribe construction and
25 completion standards and metering and reporting requirements for
26 ASR injection wells and ASR recovery wells, including for an ASR
27 injection well that also serves as an ASR recovery well.

1 (d) The commission may not adopt or enforce groundwater
2 quality protection standards for the quality of water injected into
3 an ASR injection well that are more stringent than applicable
4 federal standards.

5 Sec. 27.155. REPORTING OF INJECTION AND RECOVERY VOLUMES.

6 (a) A project operator shall install a meter on each ASR injection
7 well and ASR recovery well associated with the aquifer storage and
8 recovery project.

9 (b) Each calendar month, the project operator shall provide
10 to the commission a written or electronic report showing for the
11 preceding calendar month the volume of water:

12 (1) injected for storage; and

13 (2) recovered for beneficial use.

14 Sec. 27.156. REPORTING OF WATER QUALITY DATA. A project
15 operator shall:

16 (1) perform water quality testing annually on water to
17 be injected into a geologic formation and water recovered from a
18 geologic formation as part of the aquifer storage and recovery
19 project; and

20 (2) provide the results of the testing described by
21 Subdivision (1) in written or electronic form to the commission.

22 Sec. 27.157. OTHER LAWS NOT AFFECTED. (a) This subchapter
23 does not affect the ability to regulate an aquifer storage and
24 recovery project as authorized under:

25 (1) Chapter 626, Acts of the 73rd Legislature, Regular
26 Session, 1993, for the Edwards Aquifer Authority;

27 (2) Chapter 8801, Special District Local Laws Code,

1 for the Harris-Galveston Subsidence District;

2 (3) Chapter 8834, Special District Local Laws Code,
3 for the Fort Bend Subsidence District; or

4 (4) Chapter 8802, Special District Local Laws Code,
5 for the Barton Springs-Edwards Aquifer Conservation District.

6 (b) This subchapter does not affect the authority of the
7 commission regarding:

8 (1) recharge projects in certain portions of the
9 Edwards underground reservoir under Sections 11.023(c) and (d); or

10 (2) injection wells that transect or terminate in
11 certain portions of the Edwards Aquifer under Section 27.0516.

12 SECTION 3. Chapter 36, Water Code, is amended by adding
13 Subchapter N to read as follows:

14 SUBCHAPTER N. AQUIFER STORAGE AND RECOVERY PROJECTS

15 Sec. 36.451. DEFINITIONS. In this subchapter, "aquifer
16 storage and recovery project," "ASR injection well," "ASR recovery
17 well," and "project operator" have the meanings assigned by Section
18 27.151.

19 Sec. 36.452. REGISTRATION AND REPORTING OF WELLS. (a) A
20 project operator shall:

21 (1) register the ASR injection wells and ASR recovery
22 wells associated with the aquifer storage and recovery project with
23 any district in which the wells are located;

24 (2) each calendar month by the deadline established by
25 the commission for reporting to the commission, provide the
26 district with a copy of the written or electronic report required to
27 be provided to the commission under Section 27.155; and

1 (3) annually by the deadline established by the
2 commission for reporting to the commission, provide the district
3 with a copy of the written or electronic report required to be
4 provided to the commission under Section 27.156.

5 (b) If an aquifer storage and recovery project recovers an
6 amount of groundwater that exceeds the volume authorized by the
7 commission to be recovered under the project, the project operator
8 shall report to the district the volume of groundwater recovered
9 that exceeds the volume authorized to be recovered.

10 Sec. 36.453. PERMITTING, SPACING, AND PRODUCTION
11 REQUIREMENTS. (a) Except as provided by Subsection (b), a district
12 may not require a permit for the drilling, equipping, operation, or
13 completion of an ASR injection well or an ASR recovery well.

14 (b) The ASR recovery wells that are associated with an
15 aquifer storage and recovery project are subject to the spacing and
16 production requirements of the district if the amount of
17 groundwater recovered from the wells exceeds the volume authorized
18 by the commission to be recovered under the project. The production
19 requirements of the district apply only to the portion of the volume
20 of groundwater recovered from the ASR recovery wells that exceeds
21 the volume authorized by the commission to be recovered.

22 Sec. 36.454. FEES AND SURCHARGES. (a) A district may not
23 assess a production fee or a transportation or export fee or
24 surcharge for groundwater recovered from an ASR recovery well,
25 except to the extent that the amount of groundwater recovered under
26 the aquifer storage and recovery project exceeds the volume
27 authorized by the commission to be recovered.

1 (b) A district may assess a well registration fee or other
2 administrative fee for an ASR recovery well in the same manner that
3 the district assesses such a fee for other wells registered with the
4 district.

5 Sec. 36.455. DESIRED FUTURE CONDITIONS. A district may
6 consider hydrogeologic conditions related to the injection and
7 recovery of groundwater as part of an aquifer storage and recovery
8 project in the planning for and monitoring of the achievement of a
9 desired future condition for the aquifer in which the wells
10 associated with the project are located.

11 Sec. 36.456. OTHER LAWS NOT AFFECTED. This subchapter does
12 not affect the ability to regulate groundwater as authorized under:

13 (1) Chapter 626, Acts of the 73rd Legislature, Regular
14 Session, 1993, for the Edwards Aquifer Authority;

15 (2) Chapter 8801, Special District Local Laws Code,
16 for the Harris-Galveston Subsidence District;

17 (3) Chapter 8834, Special District Local Laws Code,
18 for the Fort Bend Subsidence District; or

19 (4) Chapter 8802, Special District Local Laws Code,
20 for the Barton Springs-Edwards Aquifer Conservation District.

21 SECTION 4. The following sections of the Water Code are
22 repealed:

23 (1) Sections 11.153(d) and (e);

24 (2) Section 11.154; and

25 (3) Section 11.155.

26 SECTION 5. Not later than May 1, 2016, the Texas Commission
27 on Environmental Quality shall adopt rules to implement Section

1 11.153, Water Code, as amended by this Act, and Subchapter G,
2 Chapter 27, Water Code, as added by this Act.

3 SECTION 6. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2015.