

By: Perry

S.B. No. 1903

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.