

By: Zwiener, Nevárez, Oliverson, et al.

H.B. No. 1044

Substitute the following for H.B. No. 1044:

By: King of Uvalde

C.S.H.B. No. 1044

A BILL TO BE ENTITLED

AN ACT

relating to permits for certain injection wells that transect a portion of the Edwards Aquifer.

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

SECTION 1. Section 27.0516(a)(1), Water Code, is amended to read as follows:

(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, together with the Upper Glen Rose Formation where scientific studies have documented a hydrological connection to the overlying 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.

SECTION 2. Sections 27.0516(b), (f), (h), (k), and (n), Water Code, are amended to read as follows:

(b) This section applies only to the portion of the Edwards Aquifer that is within the geographic area circumscribed by the

1 external boundaries of the Barton Springs-Edwards Aquifer
2 Conservation District but is not in the jurisdiction [~~that~~
3 ~~district's territory or the territory~~] of the Edwards Aquifer
4 Authority. This section does not apply to a wastewater facility
5 permitted under Chapter 26 or a subsurface area drip dispersal
6 system permitted under Chapter 32.

7 (f) The commission by rule, individual permit, or general
8 permit may authorize:

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

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

13 (A) concentrate from a desalination facility; or

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

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

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

24 (B) fresh water as part of an engineered aquifer
25 and storage recovery facility, provided that each well used for
26 injection or withdrawal from the facility must be at least three
27 miles from the closest outlet of Barton Springs; [~~or~~]

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

3 (A) aquifer remediation;

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

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

10 (5) the injection of fresh water into a well that
11 transects the Edwards Aquifer provided that:

12 (A) the well isolates the Edwards Aquifer and
13 meets the construction and completion standards adopted by the
14 commission under Section 27.154;

15 (B) the well is part of an engineered aquifer
16 storage and recovery facility;

17 (C) the injected water:

18 (i) is sourced from a public water system,
19 as defined by commission rule, that is permitted by the commission;
20 or

21 (ii) meets water quality standards for
22 public drinking water established by commission rule; and

23 (D) the injection complies with the provisions of
24 Subchapter G that are not in conflict with this section.

25 (h) Rules adopted or a ~~[general]~~ permit issued under this
26 section:

27 (1) must require that an injection well authorized by

1 the rules or permit be monitored by means of:

2 (A) one or more [~~a~~] monitoring wells [~~well~~]
3 operated by the injection well owner if the commission determines
4 that there is an underground source of drinking water in the area of
5 review that is potentially affected by the injection well; or

6 (B) if Paragraph (A) does not apply, one or more
7 [~~a~~] monitoring wells [~~well~~] operated by a party other than the
8 injection well owner, provided that all results of monitoring are
9 promptly made available to the injection well owner;

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

12 (3) may not authorize an injection well under
13 Subsection (f)(2), ~~[or]~~ (3), or (5) unless the well is initially
14 associated with a small-scale research project designed to evaluate
15 the long-term feasibility and safety of:

16 (A) the injection of concentrate from a
17 desalination facility; or

18 (B) an aquifer storage and recovery project;

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

21 (5) must require that an injection well authorized
22 under Subsection (f)(2)(A) or (3)(A) be monitored on an ongoing
23 basis by or in coordination with the well owner and that the well
24 owner file monitoring reports with the commission at least as
25 frequently as every three months; [~~and~~]

26 (6) must ensure that any injection well authorized for
27 the purpose of injecting concentrate from a desalination facility

1 does not transect the fresh water portion of the Edwards Aquifer;
2 and

3 (7) must ensure that an engineered aquifer storage and
4 recovery facility project is consistent with the provisions of
5 Subchapter G that are not in conflict with this section.

6 (k) Notwithstanding Subsection (h)(3), the commission by
7 rule, individual permit, or ~~[a]~~ general permit may authorize the
8 owner of an injection well authorized under Subsection (f)(2), ~~[or]~~
9 (3), or (5) to continue operating the well for the purpose of
10 implementing the desalination or engineered aquifer storage and
11 recovery project following completion of the small-scale research
12 project, provided that:

13 (1) the injection well owner timely submits the
14 information collected as part of the research project, including
15 monitoring reports and information regarding the environmental
16 impact of the well, to the commission;

17 (2) the injection well owner, following the completion
18 of studies and monitoring adequate to characterize risks to the
19 fresh water portion of the Edwards Aquifer, formations included in
20 the Trinity Group, or ~~[and]~~ other fresh water associated with the
21 continued operation of the well, and at least 90 days before the
22 date the owner initiates commercial well operations, files with the
23 commission a notice of intent to continue operation of the well
24 after completion of the research project; and

25 (3) the commission, based on the studies and
26 monitoring, the report provided by Texas State University--San
27 Marcos under Subsection (1)(2), and any other reasonably available

1 information, determines that continued operation of the injection
2 well as described in the notice of intent does not pose an
3 unreasonable risk to the fresh water portion of the Edwards
4 Aquifer, formations included in the Trinity Group, or other fresh
5 water associated with the continued operation of the well.

6 (n) If the commission preliminarily determines that
7 continued operation of the injection well would pose an
8 unreasonable risk to the fresh water portion of the Edwards
9 Aquifer, formations included in the Trinity Group, or other fresh
10 water associated with the continued operation of the well, the
11 commission shall notify the operator and specify, if possible, what
12 well modifications or operational controls would be adequate to
13 prevent that unreasonable risk. If the operator fails to modify the
14 injection well as specified by the commission, the commission shall
15 require the operator to cease operating the well.

16 SECTION 3. The changes in law made by this Act apply only to
17 an application for an authorization described by Section 27.0516,
18 Water Code, as amended by this Act, filed with the Texas Commission
19 on Environmental Quality on or after the effective date of this Act.
20 An application filed with the Texas Commission on Environmental
21 Quality before the effective date of this Act is governed by the law
22 in effect on the date of filing, and that law is continued in effect
23 for that purpose.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2019.