



## **2011 EDWARDS AQUIFER AUTHORITY LEGISLATION** **H.B. 1279, 82<sup>nd</sup> Legislature, Regular Session**

The Edwards Aquifer Authority (“Authority”) was created in 1993 to manage the Edwards Aquifer (“Aquifer”) in South Central Texas. The Edwards Aquifer Authority Act (“EAA Act”)<sup>1</sup> created the Authority to avoid a potential takeover of the Aquifer by the federal courts based on Endangered Species Act litigation.<sup>2</sup> Since then, the Act has provided a sound and effective framework for the Aquifer’s management. However, in the course of the Act’s implementation, the Authority has found that there are several areas that require improvement to more effectively benefit the users of the Aquifer, and the threatened and endangered species associated therewith. In summary, H.B. 1279 would amend the EAA Act to:

1. Expressly provide that Chapter 36 of the Texas Water Code does not apply to the Authority (Chapter 36 of the Texas Water Code would also be amended to this same effect.);
2. Incorporate certain sections of Chapter 36 of the Texas Water Code that are not otherwise covered in Chapter 49 of the Texas Water Code that are useful to the administration of the Authority, such as those addressing powers, duties, finances, and bonding and note authority, and that provide for judicial review;
3. Create a new category of exempt wells - *de minimis* use wells<sup>3</sup> - that would apply only to the owners of very small existing wells, and would authorize withdrawals from the Aquifer for any beneficial use without the requirement to obtain an Authority withdrawal permit;
4. Simplify the purpose of use and well location requirements for exempt domestic or livestock use wells;
5. Provide that once certain program documents have been filed with the Authority, the Edwards Aquifer Recovery Implementation Program (“EARIP”) steering committee may transfer the administration of the EARIP to any suitable entity;
6. Update references to other general laws cited in the Act that have, since passage of the Act, been repealed, amended, or re-codified; and
7. Update dates in the Act that have changed or been validated by court decisions.

---

<sup>1</sup> Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended.

<sup>2</sup> See *Sierra Club v. Lujan*, No. MO-91-CA-069 (W.D. Tex., Feb. 1, 1993), *appeal dismissed*, *Sierra Club v. Babbitt*, 995 F.2d 571 (5th Cir. 1993).

<sup>3</sup> The EAA Act already provides that certain “domestic or livestock wells” are exempt from certain permitting and metering.



**DERIVATION TABLE - INCORPORATION OF CH. 36 SECTIONS INTO EAA ACT  
H.B. 1279, 82<sup>nd</sup> Leg., R.S.**

<b>BILL SECTION</b>	<b>SUBJECT MATTER</b>	<b>CH. 36 DERIVATION</b>
<b>1</b>	Exclude EAA from Ch. 36	N/A
<b>2</b>	Chapter 36 EAA repealers	N/A
<b>3</b>	“underground water” to “groundwater”; update references; exempt wells (1.03)	<i>See</i> 36.001(5)
<b>4</b>	“underground water” to “groundwater”; repeal reference to other GCDs (1.07)	<i>See</i> 36.001(5)
<b>5</b>	Exclude EAA from Ch. 36; “underground water” to “groundwater”; update references (1.08)	<i>See</i> 36.001(5)
<b>6</b>	Update reference (1.09)	N/A
<b>7</b>	Update dates (1.10)	N/A
<b>8</b>	Powers and duties; “underground water” to “groundwater”; update references (1.11)	<i>See</i> 36.001(5); 36.066(a)
<b>9</b>	Repeal reference to other GCDs (1.13)	N/A
<b>10</b>	Exempt wells (1.14(e))	N/A
<b>11</b>	“underground water” to “groundwater”; update dates (1.16)	<i>See</i> 36.001(5)
<b>12</b>	Update dates (1.17)	N/A
<b>13</b>	Contested cases; finality of decisions	36.412, 36.413, 36.415(b)
<b>14</b>	Transfer of water (1.22)	36.104
<b>15</b>	“underground water” to “groundwater”; update dates (1.25)	<i>See</i> 36.001(5)
<b>16</b>	EARIP (1.26A)	N/A
<b>17</b>	Administrative fees (1.29)	36.205(a)
<b>18</b>	Update references (1.30)	N/A
<b>19</b>	Update dates (1.31)	N/A
<b>20</b>	Exempt wells (1.33)	<i>See</i> 36.117(b)(1) (partial)
<b>21</b>	Abandoned wells	36.118
<b>22</b>	Update references (1.37)	N/A
<b>23</b>	Enforcement (1.38)	36.102
<b>24</b>	Update dates (1.41)	N/A
<b>25</b>	“underground water” to “groundwater” (1.42)	<i>See</i> 36.001(5)
<b>26</b>	“underground water” to “groundwater” (1.43)	<i>See</i> 36.001(5)
<b>27</b>	Suits against Authority	36.066(g), 36.251, 36.253
<b>28</b>	Update reference (3.02)	N/A
<b>29</b>	Update dates (4.02)	N/A
<b>30</b>	Procedural requirements	N/A
<b>31</b>	Effective dates	N/A