

By: Miller of Comal

H.B. No. 1279

A BILL TO BE ENTITLED

AN ACT

relating to the administration, powers, duties, and operation of the Edwards Aquifer Authority.

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

SECTION 1. Subchapter A, Chapter 36, Water Code, is amended by adding Section 36.003 to read as follows:

36.003. EDWARDS AQUIFER AUTHORITY

This chapter does not apply to the Edwards Aquifer Authority.

SECTION 2. Subsection (1) Section 36.101, Subsection (e), Section 36.1011, Subsection (e)(1), Section 36.205, and Section 36.419, Water Code, are repealed.

SECTION 3. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (6), (9), (10), (20), (21), and (25) and adding Subsection (28) to read as follows:

(6) "Commission" means the Texas ~~Natural Resource Conservation~~ Commission on Environmental Quality.

(9) "Domestic ~~or livestock~~ use" means use of water for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of a family garden or orchard the produce of which is for household consumption only; or

(C) ~~watering of animals~~ the watering of residential landscape of not to exceed one-half (1/2) acre of land, or any other purpose incidental to and associated with domestic activities, so

1 long as the primary purpose of the well is for the purposes in
2 Subsection (A) of this subsection.

3 (10) "Existing user" means a person who has withdrawn and
4 beneficially used ~~underground water~~ groundwater from the aquifer on
5 or before June 1, 1993.

6 (20) "~~Underground water~~ Groundwater" ~~has the meaning~~
7 ~~assigned by Section 52.001, Water Code~~ means water percolating
8 below the surface of the earth.

9 (21) "Waste" means:

10 (A) withdrawal of ~~underground water~~ groundwater from
11 the aquifer at a rate and in an amount that causes or threatens to
12 cause intrusion into the reservoir of water unsuitable for
13 agricultural, gardening, domestic, or stock raising purposes;

14 (B) the flowing or producing of wells from the aquifer
15 if the water produced is not used for a beneficial purpose;

16 (C) escape of ~~underground water~~ groundwater from the
17 aquifer to any other reservoir that does not contain ~~underground~~
18 ~~water~~ groundwater;

19 (D) pollution or harmful alteration of ~~underground~~
20 ~~water~~ groundwater in the aquifer by salt water or other deleterious
21 matter admitted from another stratum or from the surface of the
22 ground;

23 (E) willfully or negligently causing, suffering, or
24 permitting ~~underground water~~ groundwater from the aquifer to escape
25 into any river, creek, natural watercourse, depression, lake,
26 reservoir, drain, sewer, street, highway, road, or road ditch, or
27 onto any land other than that of the owner of the well unless such

1 discharge is authorized by permit, rule, or order issued by the
2 commission under Chapter 26, Water Code;

3 (F) ~~underground water~~ groundwater pumped from the
4 aquifer for irrigation that escapes as irrigation tailwater onto
5 land other than that of the owner of the well unless permission has
6 been granted by the occupant of the land receiving the discharge; or

7 (G) for water produced from an artesian well, "waste"
8 has the meaning assigned by Section 11.205, Water Code.

9 (25) "Withdrawal" means an act or a failure to act that
10 results in taking water from the aquifer by or through man-made
11 facilities, including pumping, withdrawing, or diverting
12 ~~underground water~~ groundwater.

13 (28) "Livestock use" means use of water for the watering of
14 livestock.

15 SECTION 4. Section 1.07, Chapter 626, Acts of the 73rd
16 Legislature, Regular Session, 1993, is amended to read as follows:

17 SECTION 1.07. OWNERSHIP OF ~~UNDERGROUND~~ WATER
18 GROUNDWATER. The ownership and rights of the owner of the land and
19 the owner's lessees and assigns, including holders of recorded
20 liens or other security interests in the land, in ~~underground water~~
21 groundwater and the contract rights of any person who purchases
22 water for the provision of potable water to the public or for the
23 resale of potable water to the public for any use are recognized.
24 However, action taken pursuant to this Act may not be construed as
25 depriving or divesting the owner or the owner's lessees and
26 assigns, including holders of recorded liens or other security
27 interests in the land, of these ownership rights or as impairing the

1 contract rights of any person who purchases water for the provision
2 of potable water to the public or for the resale of potable water to
3 the public for any use, subject to the rules adopted by the
4 authority. ~~or a district exercising the powers provided by Chapter~~
5 ~~52, Water Code.~~ The legislature intends that just compensation be
6 paid if implementation of this article causes a taking of private
7 property or the impairment of a contract in contravention of the
8 Texas or federal constitution.

9 SECTION 5. Subsections (a) and (b), Section 1.08, Chapter
10 626, Acts of the 73rd Legislature, Regular Session, 1993, are
11 amended to read as follows:

12 (a) The authority has all of the powers, rights, and
13 privileges necessary to manage, conserve, preserve, and protect the
14 aquifer and to increase the recharge of, and prevent the waste or
15 pollution of water in, the aquifer. The authority has all of the
16 rights, powers, privileges, authority, functions, and duties
17 provided by the general law of this state, including Chapters ~~50~~ 49,
18 and 51, ~~and 52~~, Water Code, applicable to an authority created under
19 Article XVI, Section 59, of the Texas Constitution. This article
20 prevails over any provision of general law that is in conflict or
21 inconsistent with this article regarding the area of the
22 authority's jurisdiction. Chapter 36, Water Code, does not apply
23 to the authority.

24 (b) The authority's powers regarding ~~underground water~~
25 groundwater apply only to ~~underground water~~ groundwater within or
26 withdrawn from the aquifer. This subsection is not intended to
27 allow the authority to regulate surface water.

1 SECTION 6. Subsection (d), Section 1.09, Chapter 626, Acts
2 of the 73rd Legislature, Regular Session, 1993, is amended to read
3 as follows:

4 (d) ~~Sections 41.003 and~~ Section 41.008, Election Code, ~~do~~
5 does not apply to an election held under this article.

6 SECTION 7. Subsection (h), Section 1.10, Chapter 626, Acts
7 of the 73rd Legislature, Regular Session, 1993, is amended to read
8 as follows:

9 (h) The presiding officer of the advisory committee shall
10 submit a report assessing the effectiveness of the authority to the
11 commission and the authority by ~~March~~ December 31 of each
12 even-numbered year. The report must assess the effect on
13 downstream water rights of the management of the aquifer. The
14 authority shall consider the report in managing the authority's
15 affairs.

16 SECTION 8. Section 1.11, Chapter 626, Acts of the 73rd
17 Legislature, Regular Session, 1993, is amended by amending
18 Subsections (d)(3), (d)(10), (d)(11), and (g) to read as follows:

19 (d) The authority may:

20 (3) sue and be sued in its own name in the courts of
21 this state in the name of the authority by and through the board;

22 (10) enforce Chapter ~~32~~ 1901, ~~Water Code~~ Texas
23 Occupations Code, and ~~commission~~ rules of the Texas Department of
24 Licensing and Regulation adopted under that Act within the
25 authority's boundaries; and

26 (11) require to be furnished to the authority water
27 well drillers' logs that are required by Chapter ~~32~~ 1901, ~~Water Code~~

1 Texas Occupations Code, to be kept and furnished to the ~~commission~~
2 Texas Department of Licensing and Regulation.

3 (g) The authority has the power of eminent domain. The
4 authority may not acquire rights to ~~underground water~~ groundwater
5 by the power of eminent domain.

6 SECTION 9. Section 1.13, Chapter 626, Acts of the 73rd
7 Legislature, Regular Session, 1993, is amended to read as follows:

8 Any regulation of the withdrawal of water from the aquifer
9 must allow for credit to be given for certified reuse of the water.
10 For regulatory credit, the authority ~~or a local underground water~~
11 ~~conservation district~~ must certify:

- 12 (1) the lawful use and reuse of aquifer water;
- 13 (2) the amount of aquifer water to be used; and
- 14 (3) the amount of aquifer withdrawals replaced by
15 reuse.

16 SECTION 10. Subsection (e) of Section 1.14, Chapter 626,
17 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
18 read as follows:

19 (e) The authority may not allow withdrawals from the aquifer
20 through wells drilled after June 1, 1993, except for replacement,
21 test, or ~~exempt~~ wells exempt under Section 1.33 of this article or
22 to the extent that the authority approves an amendment to an initial
23 regular permit to authorize a change in the point of withdrawal
24 under that permit.

25 SECTION 11. Subsections (a), (b), and (d)(2) of Section
26 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session,
27 1993, are amended to read as follows:

1 (a) An existing user may apply for an initial regular permit
2 by filing a declaration of historical use of ~~underground water~~
3 groundwater withdrawn from the aquifer during the historical period
4 from June 1, 1972, through May 31, 1993.

5 (b) An existing user's declaration of historical use must be
6 filed on or before ~~March 1, 1994~~ December 30, 1996, on a form
7 prescribed by the board. An applicant for a permit must timely pay
8 all application fees required by the board. An owner of a well used
9 for irrigation must include additional documentation of the number
10 of acres irrigated during the historical period provided by
11 Subsection (a) of this section.

12 (d) The board shall grant an initial regular permit to an
13 existing user who:

14 (1) files a declaration and pays fees as required by
15 this section; and

16 (2) establishes by convincing evidence beneficial use
17 of ~~underground water~~ groundwater from the aquifer.

18 SECTION 12. Subsections (a)(2) and (d)(2), Section 1.17,
19 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
20 are amended to read as follows:

21 (a) A person who, on the effective date of this article,
22 owns a producing well that withdraws water from the aquifer may
23 continue to withdraw and beneficially use water without waste until
24 final action on permits by the authority, if:

25 (2) by ~~March 1, 1994~~ December 30, 1996, the person
26 files a declaration of historical use on a form as required by the
27 authority.

1 (d) Interim authorization for a well under this section ends
2 on:

3 (2) ~~March 1, 1994~~ December 30, 1996, if the well owner
4 has not filed a declaration of historical use.

5 SECTION 13. Act of May 30, 1993, 73rd Leg. R.S., as amended,
6 is amended by adding new Sections 1.21 and 1.211 to read as follows:

7 SECTION 1.21 CONTESTED CASE HEARINGS; REQUEST FOR REHEARING
8 OR FINDINGS AND CONCLUSIONS

9 (a) The authority, by rule, shall define under what
10 circumstances an application is considered contested and shall
11 limit participation in a hearing on a contested application to
12 persons who have a personal justiciable interest related to a legal
13 right, duty, privilege, power, or economic interest that is
14 affected by a permit or other application, not including persons
15 who have an interest common to members of the public.

16 (b) Except as provided in Subsection (c), an applicant or a
17 party in a contested hearing may file a request for rehearing not
18 later than the 20th day after the date of the board's decision.

19 (c) An applicant or a party in a contested hearing may
20 request written findings and conclusions not later than the 20th
21 day after the date of the board's decision. Upon receipt of a
22 timely filed written request under this subsection, the board shall
23 make written findings and conclusions regarding a decision of the
24 board on an application. The board shall provide copies of the
25 findings and conclusions to the person who requested them, and to
26 each person who provided comments or each designated party, not
27 later than the 35th day after the date the board received the

1 request. A person who receives a copy of the findings and
2 conclusions from the board may request a rehearing before the board
3 not later than the 20th day after the date the board issues the
4 findings and conclusions.

5 (d) A request for rehearing on a contested matter must be
6 filed in the authority's office and must state the grounds for the
7 request.

8 (e) If the board grants a request for rehearing, the board
9 shall schedule the rehearing not later than the 45th day after the
10 date the request is granted.

11 (f) The failure of the board to grant or deny a request for
12 rehearing before the 91st day after the date the request is
13 submitted constitutes a denial of the request.

14 SECTION 1.211 DECISION; WHEN FINAL

15 (a) A decision by the board on an application is final:

16 (1) if a request for rehearing is not timely filed, on
17 the expiration of the period for filing a request for rehearing; or

18 (2) if a request for rehearing is timely filed, on the
19 date:

20 (A) the board denies the request for rehearing;

21 or

22 (B) the board renders a written decision after
23 rehearing.

24 (b) A timely filed motion for rehearing is a prerequisite to
25 a suit against the Authority under Section 1.46 of this article
26 challenging the decision in a contested hearing. Such a suit may be
27 filed not later than the 60th day after the date on which the

1 decision becomes final.

2 SECTION 14. Subsection (b), Section 1.22, Chapter 626, Acts
3 of the 73rd Legislature, Regular Session, 1993, is amended to read
4 as follows:

5 (b) The authority may acquire, ~~and~~ hold, and transfer
6 permits or rights to appropriate surface water or groundwater from
7 sources inside or outside of the authority's boundaries. The
8 authority may transport and distribute surface water or groundwater
9 necessary for the authority to accomplish its powers and duties
10 authorized by this article or other applicable general law.

11 SECTION 15. Subsections (a) and (b), Section 1.25, Chapter
12 626, Acts of the 73rd Legislature, Regular Session, 1993, is
13 amended to read as follows:

14 (a) Consistent with Section 1.14 of this article, the
15 authority shall develop, ~~by September 1, 1995,~~ and implement a
16 comprehensive water management plan that includes conservation,
17 future supply, and demand management plans. The authority may not
18 delegate the development of the plan under Section 1.42 of this
19 article.

20 (b) The authority, in conjunction with the South Central
21 Texas Water Advisory Committee, the Texas Water Development Board,
22 and ~~underground water~~ groundwater conservation districts within
23 the authority's boundaries, shall develop a 20-year plan for
24 providing alternative supplies of water to the region, with
25 five-year goals and objectives, to be implemented by the authority
26 and reviewed annually by the appropriate state agencies and the
27 Edwards Aquifer Legislative Oversight Committee. The authority,

1 advisory committee, Texas Water Development Board, and districts,
2 in developing the plan, shall:

3 (1) thoroughly investigate all alternative
4 technologies;

5 (2) investigate mechanisms for providing financial
6 assistance for alternative supplies through the Texas Water
7 Development Board; and

8 (3) perform a cost-benefit and an environmental
9 analysis.

10 SECTION 16. Section 1.26A, Chapter 626, Acts of the 73rd
11 Legislature, Regular Session, 1993, is amended by adding Subsection
12 (r) to read as follows:

13 (r) After the authority has received the program document
14 that may be in the form of a habitat conservation plan used in the
15 issuance of an incidental take permit as required by Section
16 1.26(a) of this article, the administration of the recovery
17 implementation program may be transferred by the steering committee
18 to any entity that in judgment of the steering committee is suitable
19 for the administration or performance of any continuing functions
20 that may be required of the recovery implementation program. Such
21 administrative transfers may include all files, records, personal
22 property, contracts, unobligated and unexpended funds, and staff,
23 including the program manager.

24 SECTION 17. Section 1.29, Chapter 626, Acts of the 73rd
25 Legislature, Regular Session, 1993, is amended by amending
26 Subsection (f), repealing Subsection (g), and renumbering
27 Subsections (h) and (i) to read as follows:

1 (f) ~~The authority shall impose a permit application fee not~~
2 ~~to exceed \$25.~~ In addition to any fees set under Subsection (b) of
3 this section, the authority may set fees for its performance of
4 administrative acts, such as filing and processing applications and
5 registrations. Fees set by the authority may not unreasonably
6 exceed the costs of performing the administrative functions for
7 which the fee is charged.

8 ~~(g) The authority may impose a registration application fee~~
9 ~~not to exceed \$10.~~

10 ~~(h)~~ (g) Fees assessed by the authority may not be used to
11 fund the cost of reducing withdrawals or retiring permits or of
12 judgments or claims related to withdrawals or permit retirements.

13 ~~(i)~~ (h) The authority and other stakeholders, including
14 state agencies, listed under Section 1.26A of this article shall
15 provide money as necessary to finance the activities of the
16 steering committee and any subcommittees appointed by the steering
17 committee and the program director of the recovery implementation
18 program under Section 1.26A of this article. The authority shall
19 provide, as necessary, up to \$75,000 annually, adjusted for changes
20 in the consumer price index, to finance the South Central Texas
21 Water Advisory Committee's administrative expenses and programs
22 authorized under this article.

23 SECTION 18. Subsection (e), Section 1.30, Chapter 626, Acts
24 of the 73rd Legislature, Regular Session, 1993, is amended to read
25 as follows:

26 (e) ~~Sections 11.028 and~~ Section 11.033, Water Code, ~~do~~ does
27 not apply to a permit issued under this section.

1 SECTION 19. Subsection (b), Section 1.31, Chapter 626, Acts
2 of the 73rd Legislature, Regular Session, 1993, is amended to read
3 as follows:

4 (b) The authority is responsible for the costs of
5 purchasing, installing, and maintaining measuring devices, if
6 required, for an irrigation well in existence on ~~September 1, 1993~~
7 June 28, 1996.

8 SECTION 20. Section 1.33, Chapter 626, Acts of the 73rd
9 Legislature, Regular Session, 1993, is amended by amending
10 Subsections (a), (b), and (c) and adding Subsection (d) to read as
11 follows:

12 (a) Except as provided in Subsections (d) and (e) of this
13 section, A a well that is drilled, completed, or equipped so that it
14 is incapable of ~~produces~~ producing more than 25,000 gallons of
15 water a per day ~~or less~~ and is and will be used exclusively for
16 domestic use or livestock use is exempt from metering and
17 withdrawal permit requirements.

18 (b) A well drilled on or before June 1, 2011, that is
19 incapable of producing more than 1,250 gallons of water per day, or
20 that is metered and does not produce more than 1,250 gallons of
21 water per day, for any purpose of use authorized in this article is
22 exempt from withdrawal permit requirements. Multiple wells shall
23 not be used in combination with one another in a manner to satisfy a
24 single water use or purpose that when combined would not come within
25 the requirements of this subsection.

26 ~~(b)~~ (c) Exempt wells Wells exempt under Subsections (a) and
27 (b) of this section must ~~register~~ be registered with the authority.

1 ~~or with an underground water conservation district in which the~~
2 ~~well is located.~~

3 ~~(c)~~ (d) A well ~~within or serving a subdivision requiring~~
4 ~~platting~~ meeting the requirements of Subsection (a) of this section
5 ~~does not qualify for an as exempt use if the well-:~~

6 (1) serves a subdivision of land for which a plat
7 approval is required by Chapter 232, Local Government Code;

8 (2) supplies water to a public water system as that
9 term is defined in Chapter 290, 30 Texas Administrative Code; or

10 (3) is for domestic use, was drilled on or before June
11 1, 2011, and is on a tract of land on which a residence is located
12 that receives water service from a retail public utility as defined
13 in Section 13.002(19), Water Code.

14 (e) A well meeting the requirements of Subsection (a) of
15 this section that is drilled after June 1, 2011, is exempt from
16 metering and withdrawal permit requirements only if the well is on a
17 tract of land that is larger than 10 acres.

18 SECTION 21. Act of May 30, 1993, 73rd Leg. R.S., is amended
19 by adding new Section 1.361 to read as follows:

20 SECTION 1.361 ABANDONED, OPEN, UNCOVERED OR DETERIORATED
21 WELLS

22 (a) If the owner or lessee of land on which an abandoned,
23 open, uncovered or deteriorated well is located fails or refuses to
24 close, cap or plug the well in compliance with Chapter 1901,
25 Occupations Code, and the authority's rules, the authority or its
26 authorized employees, representatives, or agents may enter upon the
27 land and close, cap, or plug the well safely and securely.

1 (b) Reasonable expenses incurred by the authority in
2 closing, capping, or plugging a well constitute a lien on the land
3 on which the well is located.

4 (c) The lien as set forth in Subsection (b), arises and
5 attaches upon recordation in the deed records of the county where
6 the well is located of an affidavit, executed by any person
7 conversant with the facts, stating the following:

8 (1) the existence of the well;

9 (2) the legal description of the property on which the
10 well is located;

11 (3) the approximate location of the well on the
12 property;

13 (4) the failure or refusal of the owner or lessee,
14 after notification, to close or cap the well within 10 days after
15 the notification, or to plug the well within 180 days after
16 notification, as required by the authority's rules;

17 (5) the closing, capping, or plugging of the well by
18 the authority, or by an authorized agent, representative, or
19 employee of the authority; and

20 (6) the expense incurred by the authority in closing,
21 capping, or plugging the well.

22 (d) Nothing in this section shall affect the enforcement of
23 Subchapter A, Chapter 756, Health and Safety Code.

24 SECTION 22. Subsections (j), (n)(1), and (r), Section 1.37,
25 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
26 are amended to read as follows:

27 (j) Within 30 days after the date the authority's order is

1 final as provided by ~~Subsection (c), Section 16,~~ Administrative
2 Procedure ~~and Texas Register Act (Article 6252 13a, Vernon's Texas~~
3 ~~Civil Statutes)~~ (Section 2001.144(a), Government Code), the person
4 shall:

5 (1) pay the amount of the penalty;

6 (2) pay the amount of the penalty and file a petition
7 for judicial review contesting the occurrence of the violation, the
8 amount of the penalty, or both the occurrence of the violation and
9 the amount of the penalty; or

10 (3) without paying the amount of the penalty, file a
11 petition for judicial review contesting the occurrence of the
12 violation, the amount of the penalty, or both the occurrence of the
13 violation and the amount of the penalty.

14 (n) Judicial review of the order of the authority:

15 (1) is instituted by filing a petition as provided by
16 ~~Section 19,~~ the Administrative Procedure ~~and Texas Register~~ Act
17 ~~(Article 6252 13a, Vernon's Texas Civil Statutes)~~ (Subchapter G,
18 Chapter 2001, Government Code); and

19 (2) is under the substantial evidence rule.

20 (r) All proceedings under this section are subject to the
21 Administrative Procedure ~~and Texas Register~~ Act ~~(Article 6252 13a,~~
22 ~~Vernon's Texas Civil Statutes~~ (Chapter 2001, Government Code).

23 SECTION 23. Section 1.38, Chapter 626, Acts of the 73rd
24 Legislature, Regular Session, 1993, is amended to read as follows:

25 (a) The authority may file a civil suit in a state district
26 court for an injunction or mandatory injunction to enforce this
27 article. The authority may recover reasonable attorney fees in a

1 suit under this section.

2 (b) In an enforcement action by the authority against any
3 person that is a governmental entity for a violation of authority
4 rules, the limits on the amount of fees, costs, and penalties that
5 the authority may impose under this section constitute a limit of
6 liability of the governmental entity for the violation. This
7 subsection shall not be construed to prohibit the recovery by the
8 authority of fees and costs under this article in an action against
9 any person that is a governmental entity.

10 SECTION 24. Subsection (d), Section 1.41, Chapter 626, Acts
11 of the 73rd Legislature, Regular Session, 1993, is amended to read
12 as follows:

13 (d) On ~~September 1, 1993~~ June 28, 1996, all unobligated and
14 unexpended funds of the Edwards Underground Water District shall be
15 transferred to the authority.

16 SECTION 25. Subsections (a), (b), and (c), Section 1.42,
17 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
18 are amended to read as follows:

19 (a) ~~An underground water~~ A groundwater conservation
20 district other than the authority may manage and control water that
21 is a part of the aquifer after the effective date of this article
22 only as provided in this section. This article does not affect a
23 water reclamation or conservation district that manages and
24 controls only water from a resource other than the aquifer.

25 (b) ~~An underground water~~ A groundwater conservation
26 district other than the authority may manage and control water that
27 is a part of the aquifer to the extent that those management

1 activities do not conflict with and are not duplicative of this
2 article or the rules and orders of the authority.

3 (c) Except as otherwise provided by this article, the board
4 may delegate the powers and duties granted to it under this article.
5 The board shall delegate all or part of its powers or duties to ~~an~~
6 ~~underground-water~~ a groundwater conservation district on the
7 district's request if the district demonstrates to the satisfaction
8 of the board that:

9 (1) the district has statutory powers necessary for
10 full enforcement of the rules and orders to be delegated;

11 (2) the district has implemented all rules and
12 policies necessary to fully implement the programs to be delegated;
13 and

14 (3) the district has implemented a system designed to
15 provide the authority with adequate information with which to
16 monitor the adequacy of the district's performance in enforcing
17 board rules and orders.

18 SECTION 26. Section 1.43, Chapter 626, Acts of the 73rd
19 Legislature, Regular Session, 1993, is amended to read as follows:

20 SECTION 1.43. CREATION OF ~~UNDERGROUND-WATER~~ GROUNDWATER
21 CONSERVATION DISTRICT. ~~An underground-water~~ A groundwater
22 conservation district may be created in any county affected by this
23 article as provided by Subchapter B, Chapter ~~52~~ 36, Water Code.

24 SECTION 27. Act of May 30, 1993, 73rd Leg. R.S., as amended,
25 is amended by adding new Section 1.46 to read as follows:

26 SECTION 1.46 SUITS

27 (a) A person, firm, corporation, or association of persons

1 affected by and dissatisfied with any provision or with any rule or
2 order made by the authority is entitled to file a suit against the
3 authority or its directors to challenge the validity of the law,
4 rule, or order. The suit shall be filed in a court of competent
5 jurisdiction in any county in which the authority is located. The
6 suit may only be filed after all administrative appeals to the
7 authority are final. The burden of proof is on the petitioner, and
8 the challenged law, rule, order, or act shall be deemed prima facie
9 valid. The review on appeal is governed by either Section 2001.038
10 or Section 2001.174, Government Code, as appropriate.

11 (b) If the authority prevails in any suit to enforce this
12 article or its rules, or in any suit other than a suit in which it
13 voluntarily intervenes, the authority may seek and the court shall
14 grant, in the same action, recovery for attorney's fees, costs for
15 expert witnesses, and other costs incurred by the authority before
16 the court. The court shall set the amount of the attorney's fees.

17 SECTION 28. Section 3.02, Chapter 626, Acts of the 73rd
18 Legislature, Regular Session, 1993, is amended to read as follows:

19 The ~~Texas Natural Resource Conservation Commission~~
20 commission shall notify the Edwards Aquifer Authority of any water
21 available for appropriation in the Guadalupe-Blanco River Basin as
22 the commission discovers the available water.

23 SECTION 29. Section 4.02, Chapter 626, Acts of the 73rd
24 Legislature, Regular Session, 1993, is amended to read as follows:

25 This Act takes effect ~~September 1, 1993~~ June 28, 1996, except
26 Section 1.35 of Article 1 takes effect ~~March 1, 1994~~ December 30,
27 1996.

1 SECTION 30. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

2 (a) The proper and legal notice of the intention to
3 introduce this Act, setting forth the general substance of this
4 Act, has been published as provided by law, and the notice and a
5 copy of this Act have been furnished to all persons, agencies,
6 officials, or entities to which they are required to be furnished by
7 the constitution and other laws of this state, including the
8 governor, who has submitted the notice and Act to the Texas
9 Commission on Environmental Quality.

10 (b) The Texas Commission on Environmental Quality has filed
11 its recommendations relating to this Act with the governor,
12 lieutenant governor, and speaker of the house of representatives
13 within the required time.

14 (c) All requirements of the constitution and laws of this
15 state and the rules and procedures of the legislature with respect
16 to the notice, introduction, and passage of this Act are fulfilled
17 and accomplished.

18 SECTION 31. EFFECTIVE DATES. This Act takes effect
19 immediately if it receives a vote of two-thirds of all the members
20 elected to each house, as provided by Section 39, Article III, Texas
21 Constitution. If this Act does not receive the vote necessary for
22 immediate effect, this Act takes effect September 1, 2011.