

By: Zwiener

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. Sections 27.0516(a)(1) and (3), Water Code, are 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 there is a significant 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.

(3) "Fresh water" means surface water or groundwater, without regard to whether the water has been physically, chemically, or biologically altered, that:

(A) contains a total dissolved solids

1 concentration of not more than 1,000 milligrams per liter; ~~and~~

2 (B) meets the water quality standards for public  
3 drinking water established by commission rule; and

4 (C) is otherwise suitable as a source of drinking  
5 water supply.

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

8 (b) This section applies only to the portion of the Edwards  
9 Aquifer that is within the geographic area circumscribed by the  
10 external boundaries of the Barton Springs-Edwards Aquifer  
11 Conservation District but is not in the jurisdiction ~~[that~~  
12 ~~district's territory or the territory]~~ of the Edwards Aquifer  
13 Authority.

14 (f) The commission by general permit may authorize:

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

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

19 (A) concentrate from a desalination facility; or

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

22 (3) an injection well that terminates in that part of  
23 the saline portion of the Edwards Aquifer that has a total dissolved  
24 solids concentration of more than 10,000 milligrams per liter for  
25 the purpose of injecting into the saline portion of the Edwards  
26 Aquifer:

27 (A) concentrate from a desalination facility,

1 provided that the injection well must be at least three miles from  
2 the closest outlet of Barton Springs; or

3 (B) fresh water as part of an engineered aquifer  
4 and storage recovery facility, provided that each well used for  
5 injection or withdrawal from the facility must be at least three  
6 miles from the closest outlet of Barton Springs; ~~or~~

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

9 (A) aquifer remediation;

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

12 (C) another beneficial activity that is designed  
13 and undertaken for the purpose of increasing protection of an  
14 underground source of drinking water from pollution or other  
15 deleterious effects; or

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

18 (A) the well isolates the Edwards Aquifer and  
19 meets the construction and completion standards adopted by the  
20 commission under Section 27.154;

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

23 (C) the injected water is sourced from a public  
24 water system, as defined by commission rule, that is permitted by  
25 the commission; and

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

1 (h) Rules adopted or a general permit issued under this  
2 section:

3 (1) must require that an injection well authorized by  
4 the rules or permit be monitored by means of:

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

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

13 (2) must ensure that an authorized activity will not  
14 result in the waste or pollution of native groundwater [~~fresh~~  
15 ~~water~~];

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

20 (A) the injection of concentrate from a  
21 desalination facility; or

22 (B) an aquifer storage and recovery project;

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

25 (5) must require that an injection well authorized  
26 under Subsection (f)(2)(A) or (3)(A) be monitored on an ongoing  
27 basis by or in coordination with the well owner and that the well

1 owner file monitoring reports with the commission at least as  
2 frequently as every three months; ~~and~~

3 (6) must ensure that any injection well authorized for  
4 the purpose of injecting concentrate from a desalination facility  
5 does not transect the fresh water portion of the Edwards Aquifer;  
6 and

7 (7) must be consistent with the provisions of  
8 Subchapter G that are not in conflict with this section.

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

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

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

27 (3) the commission, based on the studies and

1 monitoring, the report provided by Texas State University--San  
2 Marcos under Subsection (1)(2), and any other reasonably available  
3 information, determines that continued operation of the injection  
4 well as described in the notice of intent does not pose an  
5 unreasonable risk to the fresh water portion of the Edwards  
6 Aquifer, the Trinity Aquifer, or other native groundwater [~~fresh~~  
7 ~~water~~] associated with the continued operation of the well.

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

18 SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2019.