

BILL ANALYSIS

C.S.H.B. 1044
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls for certain entities to be allowed to pursue aquifer storage and recovery projects to ensure a reliable water supply. C.S.H.B. 1044 seeks to address this issue by providing for permits for certain injection wells that are part of an aquifer storage and recovery project that transects a portion of the Edwards Aquifer.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1044 amends the Water Code, for purposes of provisions relating to a permit for an injection well that transects or terminates in a portion of the Edwards Aquifer within the external boundaries of the Barton Springs-Edwards Aquifer Conservation District, to change the applicability of the provisions from the portion of the Edwards Aquifer that is within the geographic area circumscribed by the external boundaries of the Barton Springs-Edwards Aquifer Conservation District but is not in that district's territory or the territory of the Edwards Aquifer Authority to the portion of the Edwards Aquifer that is within that geographic area but is not in the jurisdiction of the Edwards Aquifer Authority. The bill redefines "Edwards Aquifer" for the purposes of such provisions and makes the provisions inapplicable to a permitted wastewater facility and a permitted subsurface area drip dispersal system.

C.S.H.B. 1044 provides the option for the Texas Commission on Environmental Quality (TCEQ) to authorize certain injection activities and injection wells by rule or individual permit as an alternative to doing so by general permit. The bill includes among the injection activities that may be authorized the injection of fresh water into a well that transects the Edwards Aquifer provided that:

- the well isolates the Edwards Aquifer and meets applicable construction and completion standards adopted by TCEQ;
- the well is part of an engineered aquifer storage and recovery facility;
- the injected water is sourced from a public water system, as defined by TCEQ rule, that is permitted by TCEQ or the injected water meets water quality standards for public drinking water established by TCEQ rule; and
- the injection complies with nonconflicting aquifer storage and recovery project provisions.

The bill extends to such an injection well provisions prohibiting applicable rules or a permit from authorizing an injection well unless the well is initially associated with certain small-scale research projects. The bill also extends to such an injection well provisions authorizing TCEQ to authorize the owner of an injection well to continue operating the well for the purpose of implementing a desalination or engineered aquifer storage and recovery project following completion of a small-scale research project if certain conditions are met. The bill revises such conditions to include consideration of the risks to the formations included in the Trinity Group. The bill provides for the specification of operational controls for the prevention of unreasonable risk in applicable circumstances.

C.S.H.B. 1044 revises requirements for rules adopted or a permit issued under provisions relating to a permit for an injection well that transects or terminates in a portion of the Edwards Aquifer within the external boundaries of the Barton Springs-Edwards Aquifer Conservation District with regard to the number of monitoring wells and requires such rules and permits to ensure that an engineered aquifer storage and recovery facility project is consistent with nonconflicting aquifer storage and recovery project provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1044 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute redefines "Edwards Aquifer" in a different manner than the original. The substitute makes provisions relating to permits for injection wells that transect or terminate in a certain portion of the Edwards Aquifer inapplicable to a permitted wastewater facility and a permitted subsurface area drip dispersal system.

The substitute does not include a provision conditioning the consideration of surface water or groundwater as fresh water for certain purposes on the water meeting the water quality standards for public drinking water established by TCEQ rule. The substitute does not include changes replacing certain references to fresh water with references to native groundwater.

The substitute includes language providing the option for TCEQ to authorize certain injection activities and wells by rule or individual permit as an alternative to doing so by general permit.

The substitute, with regard to the condition that water injected into certain wells transecting the Edwards Aquifer be sourced from a public water system that is permitted by TCEQ, establishes as an alternative condition that the injected water meets water quality standards for public drinking water established by TCEQ rule.

The substitute changes a requirement that applicable rules or permits be consistent with nonconflicting aquifer storage and recovery project provisions to a requirement for applicable rules or permits to ensure that an engineered aquifer storage and recovery facility project is consistent with such provisions.

The substitute replaces references to the Trinity Aquifer with references to formations included in the Trinity Group with regard to the consideration of applicable risks relating to the authorization for an owner of certain injection wells to continue operating a well for the purpose of implementing a desalination or engineered aquifer storage and recovery project following

completion of a small-scale research project.

The substitute includes a saving provision making the bill's changes applicable only to an application for an authorization filed on or after the bill's effective date.