

SUBJECT: Reorganizing statutory language regarding the Edwards Aquifer Authority

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Larson, Metcalf, Farrar, Harris, T. King, Lang, Price, Ramos

0 nays

3 absent — Dominguez, Nevárez, Oliverson

WITNESSES: For — Marc Friberg and Roland Ruiz, Edwards Aquifer Authority

Against — None

On — Vic Hildebran, City of Uvalde

BACKGROUND: Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 establishes the Edwards Aquifer Authority. Because of environmental concerns specific to the aquifer, the authority is exempted from some statutory requirements imposed on other groundwater conservation districts.

Water Code ch. 36 governs groundwater conservation districts, and some provisions of the chapter apply to the Edwards Aquifer Authority. However, the Edwards Aquifer Authority was removed from many provisions of ch. 36 by the 84th Legislature.

Interested parties have expressed concerns that the different sections of code that govern the authority might create confusion and that the authority's specific management requirements could hinder statewide groundwater policy developments.

DIGEST: HB 2729 would establish that Water Code ch. 36 would not apply to the Edwards Aquifer Authority, remove references to the authority from that chapter, and move any administrative provisions that govern only the authority into Chapter 626 of the Acts of the 73rd Legislature.

The bill would allow the authority to enforce, within its boundaries, the laws governing water well drillers in Occupations Code ch. 1901 and related rules adopted by the Texas Commission of Licensing and Regulation. The authority could require the well drillers' logs that are required under that chapter to be kept and furnished to the Texas Department of Licensing and Regulation.

HB 2729 would require the authority's board of directors to return certified copies of the findings and conclusions of an appeal on a permit or permit amendment decision no later than 20 days after it received a request for them. The bill also would establish that a timely motion for rehearing would be a prerequisite to a suit against the authority challenging a decision in a contested hearing. A suit challenging such a decision would have to be filed by the 60th day after the decision became final.

The bill would eliminate provisions relating to a critical period management plan.

HB 2729 would allow the authority to impose fees to recover certain administrative costs. Such fees could not exceed unreasonably the administrative costs.

The bill would adopt definitions for abandoned wells and deteriorated wells, under which an abandoned well would be one that was not in use and a deteriorated well would be one whose condition would cause or would be likely to cause pollution of any water in the state, including groundwater.

If the owner or lessee on land on which an abandoned, open, uncovered, or deteriorated well was located failed or refused to close, cap, or plug the well, the authority or its authorized representative could enter the land and cap the well safely and securely. Reasonable expenses incurred in this process would constitute a lien on the land on which the well was located.

The authority's orders, issued penalties, and related procedures would be governed by Government Code ch. 2001, which provides minimum standards of uniform practice and procedure for state agencies.

In an enforcement action by the authority against a governmental entity for a violation of authority rules, the limits on fees, costs, and penalties that the authority could impose would constitute a limit of liability of the governmental entity for the violation.

The bill would remove the requirement that the authority develop a 20-year plan for providing alternative supplies of water to the region.

The bill would take effect on September 1, 2019.