

## **BILL ANALYSIS**

H.B. 2729  
By: Minjarez  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

It has been suggested that the overall management of groundwater in Texas has at times been incompatible with the directives imposed by law on the Edwards Aquifer Authority, requiring multiple exemptions for the authority from statutory provisions governing groundwater conservation districts and other water districts more generally. Concerns have been raised that this situation has created confusion about which laws apply. H.B. 2729 seeks to address this issue by revising and updating provisions relating to the authority.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2729 amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to revise and update provisions relating to the Edwards Aquifer Authority. The bill revises the Water Code provisions under which rights, powers, privileges, authority, functions, and duties are granted to or imposed on the authority and explicitly exempts the authority from statutory groundwater conservation district provisions.

H.B. 2729 makes a member of a governing body of another political subdivision ineligible for appointment or election as a director of the authority. The bill establishes that a director is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision. The bill establishes the liability for a director as an authority employee under the Texas Tort Claims Act even if the director does not receive fees of office voluntarily, by authority policy, or through a statutory exception. The bill grants a director immunity from suit and liability for official votes and official actions and specifies that, to the extent an official vote or official action conforms to laws relating to conflicts of interest, abuse of office, or constitutional obligations, immunity is provided for those actions.

H.B. 2729 authorizes an applicant in a contested or uncontested hearing on an application under the authority's governing provisions or a party to a contested hearing to administratively appeal a decision of the authority's board of directors on an application and sets out related provisions regarding findings of fact and conclusions of law by the board, a request for a rehearing, and when a board decision on an application is final.

H.B. 2729 repeals a requirement that the authority, in conjunction with specified entities, develop a 20-year plan for providing alternative supplies of water to the region and removes certain provisions and requirements relating to the authority's critical period management plan. The bill replaces the requirement that the authority impose a permit application fee capped at \$25 with an authorization to impose such fee. The bill authorizes the authority to impose fees to recover administrative costs associated with actions other than the filing and processing of applications and registrations. The bill prohibits the fees from unreasonably exceeding the administrative costs. The bill authorizes the authority to close, cap, and plug certain abandoned, open, uncovered, and deteriorated wells and sets out related provisions.

H.B. 2729 revises provisions relating to an injunction by the authority to provide for a mandatory injunction and the enforcement of the authority's rules. The bill establishes the limit of liability for a governmental entity for a violation of authority rules based on the limits on the amount of fees, costs, and penalties that the authority may impose under enforcement provisions. The authority may still recover fees and costs in such an action against a governmental entity.

H.B. 2729 sets out provisions relating to suits involving the authority, including, among other provisions, provisions relating to suits against the authority or its directors to challenge the validity of a law, rule, or order; entities authorized to participate in an appeal of a decision on an application that was the subject of a contested case hearing; and the recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the authority before a court in certain suits.

H.B. 2729 amends the Water Code to make a conforming change.

H.B. 2729 repeals the following provisions:

- Section 1.25(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993
- Section 36.101(l), Water Code
- Section 36.1011(e), Water Code
- Section 36.125, Water Code
- Section 36.419, Water Code

#### **EFFECTIVE DATE**

September 1, 2019.