

SUBJECT: Municipal regulation of groundwater recharge features

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Bosse, B. Turner, Crabb, Howard, Jackson, Mowery, Staples
0 nays
2 absent — Hamric, Krusee

WITNESSES: For — Rebecca Cedillo, San Antonio Water District; David Earl
Against — None

BACKGROUND : The Local Government Code allows a home-rule city to police and prohibit the pollution of a stream, drain, or tributary that may constitute the source of water supply of any municipality.

DIGEST: CSHB 2979 would provide that a home-rule city also could police and prohibit the degradation of a stream, drain, tributary, recharge feature or recharge area that could constitute or recharge the water supply of any city.

The bill would take effect September 1, 1997.

SUPPORTERS SAY: The bill would clarify that home-rule cities — cities with a charter and 5,000 or more population — would be able to protect their water supply from degradation as well as pollution. The Local Government Code provides that cities can prohibit pollution of their source of water supply but it mentions only streams, drains and tributaries and does not specifically include groundwater recharge features and recharge areas as protectable.

CSHB 2979 would remove any possible ambiguity in the law to clarify that such cities as San Antonio that rely on groundwater also could protect their water supplies from pollution and degradation. All cities should have specific authority to protect their water supplies, whether those supplies come from surface or groundwater.

The Texas Natural Resource Conservation Commission (TNRCC) can develop regulations designed to protect the recharge zones of certain aquifers as it has in the Edwards Aquifer region, but those rules may not be specific enough for certain development problems. This bill would authorize San Antonio and other cities in similar situations to develop regulations through ordinances designed specifically for applicability within the city's boundaries or its ETJ.

It is important for cities dependant on groundwater to protect recharge features within their boundaries and ETJ. If development paves over too many recharge features, there will be less water to replenish the aquifer. If pollution from development occurs near recharge features it can be carried into the aquifer itself, especially during storms.

**OPPONENTS
SAY:**

CSHB 2979 is unnecessary; cities already have the authority to protect their water supplies from pollution whether they are supplied by ground or surface water. The recharge zone of the Edwards Aquifer region, for example, is already protected by TNRCC rules regulating development in the recharge zone. It is unwise to enact legislation designed for a specific area that would extend to the whole state; the broader powers granted in the bill potentially could be used by some cities to harass developers and block growth under the guise of protecting their water supply.

NOTES:

The committee substitute removed provisions providing specific criteria to protect recharge features from new development, requiring developers to perform a geologic site assessment, and granting TNRCC rulemaking authority to adopt criteria about whether a recharge zone would be highly significant.