

SUBJECT: New cap on fees assessed by Barton Springs/Edwards Aquifer District

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — Counts, Walker, Cook, Corte, Culberson, King, R. Lewis, Moffat, Puente
0 nays

SENATE VOTE: On final passage, April 28 — 29-2 (Fraser, Haywood)

WITNESSES: (*On House companion, HB 3521*)
For — Roy Dalton, Neil Franklin, Sue Johnson and David Pimentel, Barton Springs Edwards Aquifer conservation District

Against — Bill Powers, Texas Farm Bureau; Philip Savoy, Take Back Texas, Incorporated; Don Turner, Barton Springs Edwards Aquifer Water Conservation District; Clay Hodges; Jim Hollis; Alton Laws; Charles Laws; Byron Townsend

BACKGROUND : The Barton Springs/Edwards Aquifer Water Conservation District is a groundwater conservation district totally funded by water user fees assessed on those who pump water from the Barton Springs segment of the Edwards Aquifer. This portion of the aquifer, located in southern Travis County and northern Hays County, is physically separated from the portion of the Edwards Aquifer in south central Texas from which San Antonio draws its water.

Sixty percent of the district's funds come from the city of Austin, which is required by law to pay that amount because of the aquifer's discharge at Barton Springs. The other 40 percent come from fees assessed on water users in rural areas of the district, including public water supply systems and municipal, commercial, and industrial users. Individual residential homeowners who pump well water do not pay fees to the district.

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DIGEST: CSSB 28 would allow the Barton Springs/Edwards Aquifer Conservation District to raise the cap on fees charged to water users from 17 to 25 cents per 1,000 gallons for a period of four years. After September 1, 2001, the cap would return to 17 cents. The limitation would not apply to a fee assessed on pumpage that would exceed permitted volumes.

If the district raised fees above the 17-cent cap, any revenue that exceeded the difference between the sum of the fees plus the contribution from the city of Austin plus \$650,000 would have to be dedicated to capital or conservation projects.

The current cap on the percentage of total district funding required of Austin would drop from 60 to 55 percent for the next four years; after September 1, 2001, it would revert to 60 percent of total funding.

CSSB 28 also would establish guidelines on district reimbursement of employee travel expenses, direct the district to minimize the amount of reimbursed travel expenses, and require that travel arrangements be cost-effective. District board meetings would be subject to the Open Meetings Act, and the board would be required to schedule each meeting at a time, date and place calculated to enable members of the working public to attend.

The Texas Natural Resource Conservation Commission (TNRCC) would be required to conduct an annual audit of the district's finances, management and operations. The audit report would be made available to the public at the district's offices and at the TNRCC's office in Austin. If a shortcoming were identified in the audit, the board would have to implement a plan to address the problem no later than three months after receiving the report. Such an audit would not be required if SB 1 was enacted and the district was required under its provisions to conduct a periodic performance audit.

CSSB 29 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

SUPPORTERS SAY: CSSB 28 would allow the Barton Springs/Edwards Aquifer Conservation District to raise desperately needed funds for capital projects designed to protect the aquifer from pollution and increase recharge in certain areas. The district has initiated a number of projects that have greatly benefited

residents in the district, even though many residents may not realize it. For example, the district made sure that proper drainage systems were installed when a new major highway was being built in an area where polluted runoff could have threatened the aquifer.

The 74th Legislature enacted legislation in 1995 that capped the district's water user fee at 17 cents per 1,000 gallons. Before the change, there was no cap on the fee, and the district had been charging 30 cents per 1,000 gallons. This drastic rate reduction slashed district finances to the bone and effectively stopped work on plans for recharge and conservation projects to protect the aquifer and benefit district residents.

CSSB 28 would give the district a chance to raise extra funds and would ensure that the increased funds could only go to capital or conservation projects in the district. The permission to increase fees would be sunsetted after four years — an incentive for the district to accomplish as much as possible and prove to the Legislature that it was deserving of any fee increases it chose to implement. A pumping fee of 25 cents per 1,000 gallons, the maximum allowed under the bill, would be a very reasonable price for water and would not represent a hardship for the water utilities, cities, and commercial and industrial users who must pay fees in the district.

CSSB 28 would be consistent with the general guidelines for groundwater districts proposed in SB 1 by Brown, the comprehensive water bill now in conference committee. Local groundwater districts are the best entities to solve local problems, rather than waiting for crisis situation to develop, which would force TNRCC to step in and dictate pumping limits to local residents.

The bill would also establish open meetings requirements and strict travel reimbursement guidelines and require TNRCC to perform an annual audit of the district — all of which would help ensure that the district was performing responsibly.

**OPPONENTS
SAY:**

The Barton Springs/Edwards Aquifer District should not be allowed to increase its fees. District residents receive no benefit whatsoever from the district — the only thing the district has done in the past has been to assess fees, misuse funds, and conduct worthless studies. The fees that landowners

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in the district must pay for pumping groundwater represents an infringement on their property rights. The state has ceded the right of capture to landowners, who should be allowed to tap any groundwater they collect from their property with few restrictions.

Lowering the percentage of total funding that must be provided to the district by the city of Austin would force rural areas to pay a larger percent of district funding — this would be unfair since Austin benefits from the enormous Barton Springs outflows and should shoulder more, not less, of the burden.

**OTHER
OPPONENTS
SAY:**

The district should be allowed to prioritize water use so that commercial users would pay higher fees than water utility companies that provide water to district residents.

NOTES:

The committee substitute represents a major rewrite of the Senate-passed version of the bill. The substitute removed provisions allowing the district board to prioritize water use and assign different fees according to priority of use; establishing a different manner of assessing fees using meters and living unit equivalents; allowing the district to construct or operate wastewater treatment facilities and borrow money; setting a fee cap of 30 cent per 1,000 gallons for the district; and establishing rules concerning the production capacity of exempt wells.