

- SUBJECT:** Increasing TCEQ fees for the Edwards Aquifer protection program
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Puente, Hamilton, Gattis, Creighton, Guillen, Hilderbran, Laubenberg, O'Day
- 0 nays
- 1 absent — Gallego
- WITNESSES:** For — (*Registered, but did not testify:* Donovan Burton, San Antonio Water System; Ken Kramer, Lone Star Chapter, Sierra Club; Andrew Smith, City of San Antonio)
- Against — None
- BACKGROUND:** The Edwards Aquifer is an underground water-bearing geologic formation that stretches from Kyle to Bracketville. The aquifer is the primary water source for over 1.7 million people, including the population of San Antonio. The Edwards Aquifer Recharge Zone includes portions of Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson counties.
- The Texas Commission on Environmental Quality (TCEQ) has enacted rules to regulate activities that could potentially pollute the Edwards Aquifer. The Edwards Rules require TCEQ approval for certain regulated activities in the Edwards Aquifer recharge zone, as well as certain activities in the contributing and transition zones. Regulated activities include construction of sewage collection systems, installation of underground fuel tanks, and regulated development. Regulated development includes commercial subdivisions and other activities that could alter recharge characteristics in the recharge zone or contribute pollutants to the aquifer.
- Under Water Code, sec. 26.041, TCEQ is authorized to impose fees for processing plans or changes to plans concerning development in the recharge zone as well as inspection of construction projects described in the plans. The fees may be no less than \$100 nor more than \$5,000. Fees

collected are deposited in the state treasury to the credit of the water quality fund.

DIGEST:

HB 3098 would raise the cap on fees from \$5,000 to \$6,500 that can be imposed by TCEQ to review plans under the Edwards Aquifer protection program. The bill would authorize a fee of up to \$13,000 for a water pollution abatement plan or contributing zone plan if the development was more than 40 acres.

The bill would include contributing zone plans under the list of plans for which fees could be charged. The bill would specify that a fee charged by the TCEQ under the Edwards Aquifer protection program would have to be based on the type of activity subject to regulation.

The bill would specify that a fee collected under the program only could be used for the TCEQ's Edwards Aquifer program, including:

- monitoring surface water, stormwater, and groundwater quality in the program area; and
- developing geographic information systems (GIS) data layers for the program.

The bill would take effect September 1, 2007, and would apply only to fees imposed on plans filed on or after that date.

**SUPPORTERS
SAY:**

HB 3098 would provide TCEQ with more money to fund its Edwards Aquifer programs, resulting in greater protection from pollution for the Edwards Aquifer as well as less bureaucracy for commercial developers. The Edwards Aquifer, the sole source of water for the city of San Antonio, is a unique and precious resource that should be protected to the greatest extent possible.

The fees supporting the Edwards Aquifer protection program have not been raised since 1997, leaving the program underfunded and unable to promptly implement the rules the agency has promulgated. The agency needs additional funding to keep up with inflationary costs as well as costs associated with rules adopted in 1999 to authorize the review of plans in the aquifer's transition and contributing zones. Developers, who must submit water pollution abatement plans before beginning development in the recharge zone, are experiencing long, expensive delays in getting their

applications processed. The additional money for the agency would allow more timely and thorough review of the plans.

The fee increase is needed in order to allow TCEQ to provide on-site and follow-up inspections in order to ensure actual compliance with the requirements of the program. Currently, TCEQ does not have the resources to fully investigate plans and ensure compliance with agency rules after plans had been approved. HB 3098 would provide the agency with the resources to institute performance measures to ensure the effectiveness of the program and the protection of the water quality of the Edwards Aquifer. Further, the GIS mapping programs authorized under the bill would enhance tracking of projects and improve the overall administration of the program.

**OPPONENTS
SAY:**

HB 3098 would allow TCEQ to increase functions such as enforcement activities, legal activities, and review of scientific information beyond the scope of TCEQ's current activities. There is no reason why developers should pay more in fees than the program currently costs, just to be regulated more stringently. Development in the Edwards Aquifer region already is highly regulated, and there is no guarantee that the extra revenue from this fee increase would be used by TCEQ to speed up processing of development applications.