

AN ACT

relating to the authority of the Barton Springs-Edwards Aquifer Conservation District to charge certain fees and limit groundwater production during a drought.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 36.205, Water Code, is amended to read as follows:

(d) The [~~Barton Springs-Edwards Aquifer Conservation District, the~~] Lone Star Groundwater Conservation District[~~7~~] and the Guadalupe County Groundwater Conservation District may not charge production fees for an annual period greater than \$1 per acre-foot for water used for agricultural use or 17 cents per thousand gallons for water used for any other purpose. [~~The Barton Springs-Edwards Aquifer Conservation District may assess a water use fee against a specific municipality in an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district.~~] This subsection shall take precedence over all prior enactments.

SECTION 2. Subchapter C, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.1045 to read as follows:

Sec. 8802.1045. AMOUNT OF ANNUAL PRODUCTION FEE.

(a) Except as provided by this section, the board may not charge an

1 annual production fee of more than \$1 per acre-foot for water  
2 permitted for agricultural use or 17 cents per thousand gallons for  
3 water permitted for any other purpose.

4 (b) For a permit first issued after September 1, 2007, or a  
5 permit first issued after September 9, 2004, and renewed after  
6 September 1, 2007, the board may charge, for the amount of water  
7 permitted under the permit as issued or renewed if the water is  
8 permitted for any purpose other than agricultural use, an annual  
9 production fee of not more than the greater of:

10 (1) 38 cents per thousand gallons; or

11 (2) the raw surface water cost of other wholesale  
12 suppliers serving customers in the district.

13 (c) For a permit that is materially amended after September  
14 1, 2007, the board may charge, for only the additional amount of  
15 water authorized by the material amendment if the water is  
16 permitted for any purpose other than agricultural use, an annual  
17 production fee of not more than the greater of:

18 (1) 38 cents per thousand gallons; or

19 (2) the raw surface water cost of other wholesale  
20 suppliers serving customers in the district.

21 (d) For a permit first issued on or before September 9,  
22 2004, that is renewed without material amendment after September 1,  
23 2007, the board may not charge an annual production fee of more than  
24 17 cents per thousand gallons for the amount of water permitted  
25 under the permit as renewed if the water is permitted for any  
26 purpose other than agricultural use.

27 (e) The board may adopt a differential rate structure for

1 the nonagricultural production fees described by this section to  
2 promote alternatives to the exclusive use of groundwater resources.

3 (f) A material amendment under this section is an amendment  
4 to a permit that increases the amount of water permitted by more  
5 than 10 percent in one fiscal year or by more than 25 percent in any  
6 three-year period. The renewal on or after September 1, 2007, of a  
7 permit that was issued on or before September 9, 2004, is considered  
8 to be a material amendment for purposes of this section if the  
9 permit as renewed increases the amount of water permitted by an  
10 amount that exceeds the limits specified by this subsection.

11 SECTION 3. Section 8802.105, Special District Local Laws  
12 Code, is amended to read as follows:

13 Sec. 8802.105. CERTAIN WATER USE FEES PERMITTED. (a)  
14 Each year the board may assess against the City of Austin a water  
15 use fee in an amount not to exceed 60 [~~40~~] percent of the total  
16 funding [~~of~~] the district expects to receive for the next fiscal  
17 year [~~received~~] from water use fees assessed against Austin and  
18 other nonexempt users in that year, subject to the computation  
19 under Subsection (b).

20 (b) For purposes of computing water use fees under this  
21 section, the district shall estimate the amount of permitted  
22 pumpage for the next fiscal year by considering various factors  
23 including historical growth rates, future growth rates, the amount  
24 of permitted pumpage, historical permitted pumpage, and any pending  
25 applications for permitted pumpage. The district shall use the  
26 estimated amount of permitted pumpage and its water use fee rate to  
27 compute the water use fee to be assessed against the City of Austin

1 for the district's next fiscal year. The district shall compute the  
2 water use fee assessed against the City of Austin at a rate of 17  
3 cents per thousand gallons for the total amount of water permitted  
4 for any nonagricultural purpose, regardless of the rate actually  
5 imposed on or remitted by the permittee.

6 SECTION 4. Subchapter C, Chapter 8802, Special District  
7 Local Laws Code, is amended by adding Sections 8802.109 and  
8 8802.110 to read as follows:

9 Sec. 8802.109. RESTRICTIONS ON PRODUCTION DURING DROUGHT.

10 (a) During a period declared by the district to be a drought and  
11 only as specified in the district's approved management plan, the  
12 district may restrict or prohibit groundwater production as  
13 provided by this section.

14 (b) The district may restrict groundwater production on an  
15 equivalent, pro-rata basis for permits first issued on or before  
16 September 9, 2004, including permits renewed after September 1,  
17 2007.

18 (c) The district, to protect the conditions of the aquifer,  
19 may restrict or prohibit groundwater production:

20 (1) for permits first issued after September 9, 2004;  
21 and

22 (2) for permits first issued on or before September 9,  
23 2004, and amended after September 9, 2004, for any additional  
24 amount of water authorized by the amendment.

25 Sec. 8802.110. RESTRICTIONS ON PRODUCTION DURING EXTREME  
26 DROUGHT. (a) During a period declared by the district to be an  
27 extreme drought, to maintain groundwater production necessary to

1 sustain human consumption and protect the public's health, safety,  
2 and welfare, the district, as provided by this section, may impose  
3 greater restrictions on groundwater production for industrial,  
4 commercial, or nonagricultural irrigation permits than the  
5 district imposes on permits for other uses.

6 (b) For an industrial, commercial, or nonagricultural  
7 irrigation permit first issued on or before September 9, 2004, the  
8 district may restrict withdrawals by an amount not to exceed 40  
9 percent of the amount permitted on or before September 9, 2004,  
10 retaining at least 60 percent of the total authorized pumpage, if:

11 (1) an alternative water supply for at least 10  
12 percent of the amount permitted is available and in place during the  
13 extreme drought; and

14 (2) any restriction imposed by the district under  
15 Sections 8802.109(b) and (c) remains in effect.

16 (c) For industrial, commercial, and nonagricultural  
17 irrigation permits first issued on or before September 9, 2004, and  
18 amended after September 9, 2004, the district may impose greater  
19 restrictions, including complete curtailment, for the additional  
20 amount of water authorized by the amendment than the district  
21 imposes on similarly situated permittees for other uses.

22 SECTION 5. The legislature finds that the Barton  
23 Springs-Edwards Aquifer Conservation District benefits the  
24 sustainable use of groundwater by promoting, through fee and  
25 permitting mechanisms, alternatives to the exclusive use of  
26 groundwater resources, including the conjunctive use of  
27 groundwater and surface water resources.

S.B. No. 747

1 SECTION 6. This Act takes effect September 1, 2007. \_\_\_\_\_

David Newkum  
President of the Senate

Tom Craddick  
Speaker of the House

I hereby certify that S.B. No. 747 passed the Senate on April 30, 2007, by the following vote: Yeas 31, Nays 0. \_\_\_\_\_

Daisy Gau  
Secretary of the Senate

I hereby certify that S.B. No. 747 passed the House on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting. \_\_\_\_\_

Robert Haney  
Chief Clerk of the House

Approved:

15 JUN 07  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10 PM O'CLOCK  
JUN 15 2007  
Robert A. Minnis  
Secretary of State