By: Barrientos   S.B. No. 988

A BILL TO BE ENTITLED

AN ACT

validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district; providing the authority to impose penalties and water use fees; and reducing the authorized level of taxation.

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

SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the Governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of conservation and reclamation districts and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished. The legislature hereby finds that creation of the Barton
Springs-Edwards Aquifer Conservation District (the "district"), the
boundaries of which are set forth by the Texas Water Commission's
August 15, 1986, order, is feasible and practicable, that it would
be a benefit to land in the district, and that it would be a public
benefit and utility, subject only to a confirmation election of the
voters in the district; and as modified herein, the legislature
hereby affirms, ratifies, and validates creation of the district as
an underground water conservation district under Chapter 52, Water
Code, pursuant to Texas Water Commission Orders dated April 9,
1986; August 15, 1986; and November 19, 1986.

SECTION 2. POWERS AND DUTIES OF DISTRICT. (a) The district
has the powers, duties, authority, and responsibilities provided by
Chapter 52, Water Code, for underground water conservation
districts, except as modified in this section.

(b)(1) Except as provided by Subdivision (2) of this
subsection, the district does not have the authority to levy taxes
under Section 52.351, Water Code.

(2) If the user fee authorized by this section is held
unconstitutional by the Texas Supreme Court, the district may levy
a property tax as provided by Sections 52.351 through 52.354, Water
Code. The property tax may be set in an amount of not more than
three cents for each $100 valuation of property. An election must
be called and held in the district to approve the property tax and
a majority of the qualified voters voting at the election must
approve the tax before the tax can be levied and collected.

(c)(1) The board of directors of the district (the "board")
has by rule the authority to impose reasonable fees on each well
for which a permit is issued by the district and which is not
exempted from regulation by the district. The fees may be assessed
on an annual basis, based upon the size of column pipe used in the
wells, the production capacity of the well, or actual, authorized,
or anticipated pumpage. The board may utilize fees as both a
regulatory mechanism and a revenue-producing mechanism.

(2) The board shall adopt rules relating to the rates of
fees, the manner and form for filing reports of fees, and the
manner of collection of fees.

(3) The money collected from fees may be used by the
district to manage and operate the district and to pay all or part
of the principal of and interest on district bonds or notes.

(d)(1) The production capacity for exempt wells within the
district, as specified in Section 52.170, Water Code, is hereby
reduced from 25,000 gallons per day to 10,000 gallons per day.

(2) The number of households that may be supplied by an
exempt domestic well in the district, pursuant to Subdivision (2),
Section 52.170, Water Code, is hereby reduced to five or less.

(e) In addition to other remedies for violations of permits,
rules, or orders, the district has the power to enforce its
permits, orders, and rules as follows:

(1) If it appears that a person has violated or is violating
any provision of Chapter 52, Water Code, or any order, permit, or
rule of the district, the district may file civil suit in a
district court of the county in which the violation occurs to
obtain:

(A) injunctive relief to restrain the person from continuing the violation;

(B) assessment and recovery of a civil penalty of not less than $50 or more than $1,000 for each violation and for each day of violation; or

(C) both injunctive relief and civil penalties.

(2) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, permit, or other order of the district, the district court shall grant injunctive relief as the facts may warrant.

(3) Initiation of legal action to obtain penalties shall be authorized by resolution of the board of directors or by the district's general manager, if authorized by the board.

(4) The district is not required to post bond or other security with the court under this section and may recover reasonable attorney's fees and expert witness's fees in suits brought under this section.

(f)(1) The legislature finds that the City of Austin currently receives, by way of the discharge of Barton Springs, contribution to its municipal water supply in an overall volume roughly equivalent to existing usage by other nonexempt users of water from the aquifer, and that the City of Austin shall elect two of the five members of the district's board of directors.

(2) The board may assess the City of Austin, as a water use
fee, each year an amount not to exceed 40 percent of the total
funding of the district received from water use fees assessed —
against Austin and other nonexempt users.

SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of
land within the district that is located within the corporate
limits or extraterritorial jurisdiction of a municipality does not
require approval by the municipality pursuant to the Municipal
Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

SECTION 4. CONFIRMATION ELECTION. A confirmation election
shall be held to confirm or deny the district's creation. If
approved by a majority vote, the district as a whole is confirmed;
if rejected by a majority of those voting, the district is not
confirmed and no subsequent confirmation election may be held
during the year following the election date.

SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas
of Creedmore/Maha Water Supply Corporation, Goforth Water Supply
Corporation, or any other water supply utility relying upon the
aquifer for greater than 50 percent of its water supply but having
a service area not within the management area defined by the Texas
Water Commission's August 15, 1986, order, may be annexed into the
district on a local option basis as provided by this section. By
resolution, the governing body of the water utility may request
that a local option annexation election be held within the
boundaries of its service area on the date of the district's
confirmation election. Along with the resolution, the utility
shall supply to the board a boundary description of its service
area, sufficient to serve as election boundaries and district
boundaries, and a deposit of funds to reimburse the district for
the cost of conducting the election in the utility's service area.
If approved by a majority of the voters in the utility service
area, the area shall be included within the district for all
purposes for so long as it continues to rely on the aquifer as a
source of water supply.

SECTION 6. DISSOLUTION OF DISTRICT. Provided it has no
outstanding bonds or other long-term indebtedness, the district may
be dissolved by a vote of two-thirds of the voters in an election
called for that purpose voting in favor of dissolving the district.
A dissolution election shall be called by the board following
receipt of a petition signed by a number of registered voters in
the district equivalent to 30 percent of the voters in the
district's most recent election.

SECTION 7. BOARD OF DIRECTORS. (a) The board consists of
five members. If a director appointed by the Texas Water
Commission fails to qualify for office, the remaining directors
shall appoint someone to fill the vacancy for the unexpired term.
If at any time the number of qualified directors is less than three
because of the failure or refusal of one or more directors to
qualify or serve, because of death or incapacitation, or for any
other reason, the Texas Water Commission shall appoint the
necessary number of directors to fill all vacancies on the board.

(b) The initial directors shall serve until the directors
elected at the election to be held on the third Saturday in May,
1988, have qualified for office.

   (c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms and all director's elections shall occur on the May general election date of even-numbered years.

SECTION 8. CONVERSION OF THE DISTRICT. The district may not be converted to any other type of conservation and reclamation district under any provision of law.

SECTION 9. BORROWING MONEY. The district may borrow money for purposes of the district authorized by law according to the provisions of Subchapter J, Chapter 51, Water Code.

SECTION 10. SEVERABILITY. If any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of the Act, and it is hereby declared to be the intention of this legislature to have passed each section, sentence, clause, or part irrespective of the fact that any other section, sentence, clause, or part may be declared invalid.

SECTION 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared:

James R. Frizzell

Classified Advertising Agent of the Austin American-Statesman, a daily newspaper published in said County and State, who being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit:

December 23rd, 1986

and that the attached is a true copy of said advertisement.

SWORN AND SUBSCRIBED TO BEFORE ME, this the 6th Day of April A.D. 1987.

Denise STegall

(Type or Print Name of Notary)

Notary Public in and for TRAVIS COUNTY, TEXAS

3/3/90

(My Commission Expires:)

166 EAST RIVERSIDE, P. O. BOX 670, AUSTIN, TEXAS 78767, 512-445-3500
By: Barrientos  
S. B. No. 988

(In the Senate - Filed March 12, 1987; March 16, 1987, read first time and referred to Committee on Natural Resources; April 28, 1987, reported favorably by the following vote: Yeas 6, Nays 0; April 28, 1987, sent to printer.)

COMMITTEE VOTE

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A BILL TO BE ENTITLED AN ACT

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SECTION 2. POWERS AND DUTIES OF DISTRICT. (a) The district has the powers, duties, authority, and responsibilities provided by Chapter 52, Water Code, for underground water conservation districts, except as modified in this section.

(b)(1) Except as provided by Subdivision 2 of this subsection, the district does not have the authority to levy taxes under Section 52.351, Water Code.

(2) If the user fee authorized by this section is held unconstitutional by the Texas Supreme Court, the district may levy a property tax as provided by Sections 52.351 through 52.354, Water Code. The property tax may be set in an amount of not more than three cents for each $100 valuation of property. An election must be called and held in the district to approve the property tax and a majority of the qualified voters voting at the election must approve the tax before the tax can be levied and collected.

(c)(1) The board of directors of the district (the "board") has by rule the authority to impose reasonable fees on each well for which a permit is issued by the district and which is not
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(2) The board shall adopt rules relating to the rates of fees, the manner and form for filing reports of fees, and the manner of collection of fees.

(3) The money collected from fees may be used by the district to manage and operate the district and to pay all or part of the principal of and interest on district bonds or notes.

(d) (1) The production capacity for exempt wells within the district, as specified in Section 52.170, Water Code, is hereby reduced from 25,000 gallons per day to 10,000 gallons per day.

(2) The number of households that may be supplied by an exempt domestic well in the district, pursuant to Subdivision (2), Section 52.170, Water Code, is hereby reduced to five or less.

(e) In addition to other remedies for violations of permits, rules, or orders, the district has the power to enforce its permits, orders, and rules as follows:

(1) If it appears that a person has violated or is violating any provision of Chapter 52, Water Code, or any order, permit, or rule of the district, the district may file civil suit in a district court of the county in which the violation occurs to obtain:

(A) injunctive relief to restrain the person from continuing the violation;

(B) assessment and recovery of a civil penalty of not less than $50 or more than $1,000 for each violation and for each day of violation; or

(C) both injunctive relief and civil penalties.

(2) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, permit, or other order of the district, the district court shall grant injunctive relief as the facts may warrant.

(3) Initiation of legal action to obtain penalties shall be authorized by resolution of the board of directors or by the district's general manager, if authorized by the board.

(4) The district is not required to post bond or other security with the court under this section and may recover reasonable attorney's fees and expert witness's fees in suits brought under this section.

(f)(1) The legislature finds that the City of Austin currently receives, by way of the discharge of Barton Springs, contribution to its municipal water supply in an overall volume roughly equivalent to existing usage by other nonexempt users of water from the aquifer, and that the City of Austin shall elect two of the five members of the district's board of directors.

(2) The board may assess the City of Austin, as a water use fee, each year an amount not to exceed 40 percent of the total funding of the district received from water use fee assessed against Austin and other nonexempt users.

SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of land within the district that is located within the corporate limits or extraterritorial jurisdiction of a municipality does not require approval by the municipality pursuant to the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

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shall supply to the board a boundary description of its service area, sufficient to serve as election boundaries and district boundaries, and a deposit of funds to reimburse the district for the cost of conducting the election in the utility's service area. If approved by a majority of the voters in the utility service area, the area shall be included within the district for all purposes for so long as it continues to rely on the aquifer as a source of water supply.

SECTION 6. DISSOLUTION OF DISTRICT. Provided it has no outstanding bonds or other long-term indebtedness, the district may be dissolved by a vote of two-thirds of the voters in an election called for that purpose voting in favor of dissolving the district. A dissolution election shall be called by the board following receipt of a petition signed by a number of registered voters in the district equivalent to 30 percent of the voters in the district's most recent election.

SECTION 7. BOARD OF DIRECTORS. (a) The board consists of five members. If a director appointed by the Texas Water Commission fails to qualify for office, the remaining directors shall appoint someone to fill the vacancy for the unexpired term. If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, the Texas Water Commission shall appoint the necessary number of directors to fill all vacancies on the board. (b) The initial directors shall serve until the directors elected at the election to be held on the third Saturday in May, 1998, have qualified for office. (c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms and all director's elections shall occur on the May general election date of even-numbered years.

SECTION 8. CONVERSION OF THE DISTRICT. The district may not be converted to any other type of conservation and reclamation district under any provision of law.

SECTION 9. BORROWING MONEY. The district may borrow money for purposes of the district authorized by law according to the provisions of Subchapter J, Chapter 51, Water Code.

SECTION 10. SEVERABILITY. If any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of the Act, and it is hereby declared to be the intention of this legislature to have passed each section, sentence, clause, or part irrespective of the fact that any other section, sentence, clause, or part may be declared invalid.

SECTION 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

* * * *

Austin, Texas
April 28, 1987

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred S.B. No. 988, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Santiesteban, Chairman
SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

Sir:

We, your Committee on _NATURAL RESOURCES_ to which was referred

SB 988 by _Barnes_ have on _April 27_, 1987, had the same

(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation(s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

☐ A fiscal note was requested. ☐ yes ☐ no

☐ A revised fiscal note was requested. ☐ yes ☐ no

☐ An actuarial analysis was requested. ☐ yes ☐ no

☐ Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure _Barnes_

The measure was reported from Committee by the following vote:

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COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this form to the original bill and retain one copy for your file.
The Edwards Aquifer, which is located between San Antonio and Austin, is one of the major aquifers in Texas. It is currently divided into two sections: (1) the San Antonio Region; and (2) the Austin Region. The San Antonio Region is currently managed by a conservation district and called the Edwards Underground Water District. However, the Austin Region is not managed by a conservation district.

The Austin Region covers a hydrologically distinct portion of the Edwards Aquifer. That portion is especially sensitive and vulnerable to contamination. This sensitivity and vulnerability has raised public concern for groundwater protection in the Austin Region. This concern derives from the fact that a significant portion of the area population draws their drinking water from the Austin Region. Further, USGS studies show that, given the Edwards Aquifer's finite product capacity, without proper management a portion of the Austin Region will suffer severe groundwater depletion within the next 15 years.

The Texas Water Commission approved the creation of the Barton Springs-Edwards Aquifer Conservation District, which occupies a 155-square mile area in Hays and Travis Counties. The temporary board is planning a confirmation election in April, 1987.

PURPOSE:

As proposed, S.B. 988 validates the creation of the Barton Springs-Edwards Aquifer Conservation District and amends the powers and duties of that conservation district.

RULEMAKING AUTHORITY:

It is the committee's opinion that rulemaking authority is granted to the Board of Directors of the District under Section 2 of this bill.

SECTION BY SECTION ANALYSIS:

SECTION 1. Provides the legislature's finding that all requirements, rules, laws, and procedures have been complied with regarding the notice, introduction, and passage of this Act. Creates the Barton Springs-Edwards Aquifer Conservation District (district) as an underground conservation district under Chapter 52, Texas Water Code, subject to confirmation by district voters.

SECTION 2. (a) Provides the district with the powers and duties of Chapter 52, Texas Water Code, except as modified in this section. (b)(1) Provides that the district does not have authority to levy taxes under Section 52.351, Water Code, except as provided by subdivision 2 of this subsection. (2) Allows the district to levy a property tax if the user fee authorized by this section is held unconstitutional. (c) Authorizes the board of directors of the district (board) to impose fees on certain wells. Provides for adoption of rules relating to fees. (d)(1) Reduces the production capacity for certain exempt wells. (2) Reduces the number of households that may be supplied by certain exempt domestic wells in the district. (e) Provides for enforcement of district rules by civil suit. (f)(1) Provides the legislature's finding concerning Barton Springs contribution to the municipal water supply of the City of Austin and requires the City of Austin to elect two of the five members of the board. (2) Provides for an annual water use fee for the City of Austin.

SECTION 3. Expects inclusion of land within the District from municipality approval pursuant to Article 970a, T.R.C.S..

SECTION 4. Requires a confirmation election for the district's creation.

SECTION 5. Allows the service areas of certain water supply utilities to be annexed into the district on a local option basis.

SECTION 6. Provides for dissolution of the district.

SECTION 7. (a) Provides for membership of the board. (b) Provides the term of office for the initial board members. (c) Provides for the term of office for board members.
SECTION 8. Prohibits the district from being converted to any other type of conservation and reclamation district.

SECTION 9. Allows the district to borrow money for certain purposes according to Subchapter J, Chapter 51, Water Code.

SECTION 5. Severability clause.

Effective date. Upon passage.

JKC 1.16.87
TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 988 (validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.

Source: LBB Staff: JO, HES, JWH, GL, MC
REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Roy Blake, Chairman
Administration Committee

Sir:

Notice is hereby given that SB 988, by: _____

was heard by the Committee on Nat. Res. on 4/27, 1987,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0305 IF YOU HAVE ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 3:00 P.M. FRIDAYS.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.
By: Barrientos
(Smith of Travis)  S.B. No. 988

A BILL TO BE ENTITLED

AN ACT

validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district; providing the authority to impose penalties and water use fees; and reducing the authorized level of taxation.

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

SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the Governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of conservation and reclamation districts and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished. The legislature hereby finds that creation of the Barton
Springs-Edwards Aquifer Conservation District (the "district"), the
boundaries of which are set forth by the Texas Water Commission's
August 15, 1986, order, is feasible and practicable, that it would
be a benefit to land in the district, and that it would be a public
benefit and utility, subject only to a confirmation election of the
voters in the district; and as modified herein, the legislature
hereby affirms, ratifies, and validates creation of the district as
an underground water conservation district under Chapter 52, Water
Code, pursuant to Texas Water Commission orders dated April 9,
1986; August 15, 1986; and November 19, 1986.

SECTION 2. POWERS AND DUTIES OF DISTRICT. (a) The district
has the powers, duties, authority, and responsibilities provided by
Chapter 52, Water Code, for underground water conservation
districts, except as modified in this section.

(b)(1) Except as provided by Subdivision 2 of this
subsection, the district does not have the authority to levy taxes
under Section 52.351, Water Code.

(2) If the user fee authorized by this section is held
unconstitutional by the Texas Supreme Court, the district may levy
a property tax as provided by Sections 52.351 through 52.354, Water
Code. The property tax may be set in an amount of not more than
three cents for each $100 valuation of property. An election must
be called and held in the district to approve the property tax and
a majority of the qualified voters voting at the election must
approve the tax before the tax can be levied and collected.

(c)(1) The board of directors of the district (the "board")
has by rule the authority to impose reasonable fees on each well
for which a permit is issued by the district and which is not
exempted from regulation by the district. The fees may be assessed
on an annual basis, based upon the size of column pipe used in the
wells, the production capacity of the well, or actual, authorized,
or anticipated pumpage. The board may utilize fees as both a
regulatory mechanism and a revenue-producing mechanism.

(2) The board shall adopt rules relating to the rates of
fees, the manner and form for filing reports of fees, and the
manner of collection of fees.

(3) The money collected from fees may be used by the
district to manage and operate the district and to pay all or part
of the principal of and interest on district bonds or notes.

(d)(1) The production capacity for exempt wells within the
district, as specified in Section 52.170, Water Code, is hereby
reduced from 25,000 gallons per day to 10,000 gallons per day.

(2) The number of households that may be supplied by an
exempt domestic well in the district, pursuant to Subdivision (2),
Section 52.170, Water Code, is hereby reduced to five or less.

(e) In addition to other remedies for violations of permits,
rules, or orders, the district has the power to enforce its
permits, orders, and rules as follows:

(1) If it appears that a person has violated or is violating
any provision of Chapter 52, Water Code, or any order, permit, or
rule of the district, the district may file civil suit in a
district court of the county in which the violation occurs to
obtain:

(A) injunctive relief to restrain the person from continuing the violation;

(B) assessment and recovery of a civil penalty of not less than $50 or more than $1,000 for each violation and for each day of violation; or

(C) both injunctive relief and civil penalties.

(2) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, permit, or other order of the district, the district court shall grant injunctive relief as the facts may warrant.

(3) Initiation of legal action to obtain penalties shall be authorized by resolution of the board of directors or by the district's general manager, if authorized by the board.

(4) The district is not required to post bond or other security with the court under this section and may recover reasonable attorney's fees and expert witness's fees in suits brought under this section.

(f)(1) The legislature finds that the City of Austin currently receives, by way of the discharge of Barton Springs, contribution to its municipal water supply in an overall volume roughly equivalent to existing usage by other nonexempt users of water from the aquifer, and that the City of Austin shall elect two of the five members of the district's board of directors.

(2) The board may assess the City of Austin, as a water use
fee, each year an amount not to exceed 40 percent of the total
funding of the district received from water use fee assessed
against Austin and other nonexempt users.

SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of
land within the district that is located within the corporate
limits or extraterritorial jurisdiction of a municipality does not
require approval by the municipality pursuant to the Municipal
Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

SECTION 4. CONFIRMATION ELECTION. A confirmation election
shall be held to confirm or deny the district's creation. If
approved by a majority vote, the district as a whole is confirmed;
if rejected by a majority of those voting, the district is not
confirmed and no subsequent confirmation election may be held
during the year following the election date.

SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas
of Creedmore Maha Water Supply Corporation, Goforth Water Supply
Corporation, or any other water supply utility relying upon the
aquifer for greater than 50 percent of its water supply but having
a service area not within the management area defined by the Texas
Water Commission's August 15, 1986, order, may be annexed into the
district on a local option basis as provided by this section. By
resolution, the governing body of the water utility may request
that a local option annexation election be held within the
boundaries of its service area on the date of the district's
confirmation election. Along with the resolution, the utility
shall supply to the board a boundary description of its service
area, sufficient to serve as election boundaries and district
boundaries, and a deposit of funds to reimburse the district for
the cost of conducting the election in the utility's service area.
If approved by a majority of the voters in the utility service
area, the area shall be included within the district for all
purposes for so long as it continues to rely on the aquifer as a
source of water supply.

SECTION 6. DISSOLUTION OF DISTRICT. Provided it has no
outstanding bonds or other long-term indebtedness, the district may
be dissolved by a vote of two-thirds of the voters in an election
called for that purpose voting in favor of dissolving the district.
A dissolution election shall be called by the board following
receipt of a petition signed by a number of registered voters in
the district equivalent to 30 percent of the voters in the
district's most recent election.

SECTION 7. BOARD OF DIRECTORS. (a) The board consists of
five members. If a director appointed by the Texas Water
Commission fails to qualify for office, the remaining directors
shall appoint someone to fill the vacancy for the unexpired term.
If at any time the number of qualified directors is less than three
because of the failure or refusal of one or more directors to
qualify or serve, because of death or incapacitation, or for any
other reason, the Texas Water Commission shall appoint the
necessary number of directors to fill all vacancies on the board.
(b) The initial directors shall serve until the directors
elected at the election to be held on the third Saturday in May,
1988, have qualified for office.

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all director's elections shall occur on the May general election date of even-numbered years.

SECTION 8. CONVERSION OF THE DISTRICT. The district may not be converted to any other type of conservation and reclamation district under any provision of law.

SECTION 9. BORROWING MONEY. The district may borrow money for purposes of the district authorized by law according to the provisions of Subchapter J, Chapter 51, Water Code.

SECTION 10. SEVERABILITY. If any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of the Act, and it is hereby declared to be the intention of this legislature to have passed each section, sentence, clause, or part irrespective of the fact that any other section, sentence, clause, or part may be declared invalid.

SECTION 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 988 as follows:

On page 2, line 11, change current subsection (a) to (a)(1) and between lines 14 and 15 insert new subsection (a)(2) to read:

(a)(2) The district may not adopt rules regulating zoning or the subdivision of land.

Smith of Travis

COMMITTEE AMENDMENT NO. 2

Amend S.B. No. 988 as follows:

On page 7, line 12, after the words "Water Code." insert a new sentence to read:

"The district may not borrow money for a period of more than one year."

Smith of Travis

COMMITTEE AMENDMENT NO. 3

Amend S.B. 988 by adding the following new Section 10 and renumbering existing Sections 10 and 11 accordingly:

"SECTION 10. Nothing contained in this Act affecting the Barton Springs-Edwards Aquifer Conservation District shall adversely affect the rights of any parties who were in litigation, on or before February 1, 1987 with the Texas Water Commission or the petitioners for the creation of the Barton Springs-Edwards Aquifer Conservation District."

Smith of Travis

COMMITTEE AMENDMENT NO. 4

Amend S.B. 988 by adding a new Section 10 to read as follows and renumbering the subsequent sections accordingly:
SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents of any county area of the district may, on petition of 15 percent of the registered voters within the county area of the district, request that the board of directors hold a referendum, in conjunction with the next regularly scheduled directors' election, to determine whether or not that county area will remain within the district. The petition must be submitted to the board of directors not later than the 45th day before the date of the election. The referendum shall be called and added to the ballot of the May directors' election in the county area. Approval of the withdrawal must be by the affirmative vote of a majority of the voters voting on the proposition: "The ___________ county area of the Barton Springs-Edwards Aquifer Conservation District shall be withdrawn from the Barton Springs-Edwards Aquifer Conservation District."

The withdrawal of any county area voting to withdraw from the district is effective on June 1 following the referendum. On and after that date, the boundaries of the district shall be redefined to exclude the county area; the levy and collection of the district's taxes or user fees within the county area shall cease; the offices held by the directors elected from the county area shall terminate; and the other matters provided by law or by agreement with any person affecting the authority and operations of the district shall be automatically redesignated and redefined to be consistent with the withdrawal of the county area.
S.B. No. 988

1 (b) A county area may not petition for exclusion from the
district before the third anniversary of the confirmation election
at which the creation of the district was confirmed.

4  70R8258 ELA-F Smith of Travis
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
March 24, 1987

TO: Honorable H. Tati Santiesteban, Chairman
   Committee on Natural Resources
   Senate Chamber
   Austin, Texas

FROM: Jim Oliver, Director

In Re: Senate Bill No. 988
By: Barrientos

In response to your request for a Fiscal Note on Senate Bill No. 988 (validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.

Source: LBB Staff: JO, HES, JWH, GL, MC

70FSB988
By: Barrientos

(Smith of Travis) A BILL TO BE ENTITLED

S.B. No. 988

AN ACT

validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district; providing the authority to impose penalties and water use fees; and reducing the authorized level of taxation.

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

SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the Governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of conservation and reclamation districts and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished. The legislature hereby finds that creation of the Barton
Springs-Edwards Aquifer Conservation District (the "district"), the boundaries of which are set forth by the Texas Water Commission’s August 15, 1986, order, is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit and utility, subject only to a confirmation election of the voters in the district; and as modified herein, the legislature hereby affirms, ratifies, and validates creation of the district as an underground water conservation district under Chapter 52, Water Code, pursuant to Texas Water Commission orders dated April 9, 1986; August 15, 1986; and November 19, 1986.

SECTION 2. POWERS AND DUTIES OF DISTRICT. (a) The district has the powers, duties, authority, and responsibilities provided by Chapter 52, Water Code, for underground water conservation districts, except as modified in this section.

(b)(1) Except as provided by Subdivision 2 of this subsection, the district does not have the authority to levy taxes under Section 52.351, Water Code.

(2) If the user fee authorized by this section is held unconstitutional by the Texas Supreme Court, the district may levy a property tax as provided by Sections 52.351 through 52.354, Water Code. The property tax may be set in an amount of not more than three cents for each $100 valuation of property. An election must be called and held in the district to approve the property tax and a majority of the qualified voters voting at the election must approve the tax before the tax can be levied and collected.

(c)(1) The board of directors of the district (the "board")
1 has by rule the authority to impose reasonable fees on each well
2 for which a permit is issued by the district and which is not
3 exempted from regulation by the district. The fees may be assessed
4 on an annual basis, based upon the size of column pipe used in the
5 wells, the production capacity of the well, or actual, authorized,
6 or anticipated pumpage. The board may utilize fees as both a
7 regulatory mechanism and a revenue-producing mechanism.
8 (2) The board shall adopt rules relating to the rates of
9 fees, the manner and form for filing reports of fees, and the
10 manner of collection of fees.
11 (3) The money collected from fees may be used by the
12 district to manage and operate the district and to pay all or part
13 of the principal of and interest on district bonds or notes.
14 (d)(1) The production capacity for exempt wells within the
15 district, as specified in Section 52.170, Water Code, is hereby
16 reduced from 25,000 gallons per day to 10,000 gallons per day.
17 (2) The number of households that may be supplied by an
18 exempt domestic well in the district, pursuant to Subdivision (2),
19 Section 52.170, Water Code, is hereby reduced to five or less.
20 (e) In addition to other remedies for violations of permits,
21 rules, or orders, the district has the power to enforce its
22 permits, orders, and rules as follows:
23 (1) If it appears that a person has violated or is violating
24 any provision of Chapter 52, Water Code, or any order, permit, or
25 rule of the district, the district may file civil suit in a
26 district court of the county in which the violation occurs to
obtain:

(A) injunctive relief to restrain the person from continuing the violation;

(B) assessment and recovery of a civil penalty of not less than $50 or more than $1,000 for each violation and for each day of violation; or

(C) both injunctive relief and civil penalties.

(2) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, permit, or other order of the district, the district court shall grant injunctive relief as the facts may warrant.

(3) Initiation of legal action to obtain penalties shall be authorized by resolution of the board of directors or by the district's general manager, if authorized by the board.

(4) The district is not required to post bond or other security with the court under this section and may recover reasonable attorney's fees and expert witness's fees in suits brought under this section.

(f)(1) The legislature finds that the City of Austin currently receives, by way of the discharge of Barton Springs, contribution to its municipal water supply in an overall volume roughly equivalent to existing usage by other nonexempt users of water from the aquifer, and that the City of Austin shall elect two of the five members of the district's board of directors.

(2) The board may assess the City of Austin, as a water use
fee, each year an amount not to exceed 40 percent of the total funding of the district received from water use fee assessed against Austin and other nonexempt users.

SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of land within the district that is located within the corporate limits or extraterritorial jurisdiction of a municipality does not require approval by the municipality pursuant to the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

SECTION 4. CONFIRMATION ELECTION. A confirmation election shall be held to confirm or deny the district's creation. If approved by a majority vote, the district as a whole is confirmed; if rejected by a majority of those voting, the district is not confirmed and no subsequent confirmation election may be held during the year following the election date.

SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas of Creedmore Maha Water Supply Corporation, Goforth Water Supply Corporation, or any other water supply utility relying upon the aquifer for greater than 50 percent of its water supply but having a service area not within the management area defined by the Texas Water Commission's August 15, 1986, order, may be annexed into the district on a local option basis as provided by this section. By resolution, the governing body of the water utility may request that a local option annexation election be held within the boundaries of its service area on the date of the district's confirmation election. Along with the resolution, the utility shall supply to the board a boundary description of its service
area, sufficient to serve as election boundaries and district boundaries, and a deposit of funds to reimburse the district for the cost of conducting the election in the utility's service area. If approved by a majority of the voters in the utility service area, the area shall be included within the district for all purposes for so long as it continues to rely on the aquifer as a source of water supply.

SECTION 6. DISSOLUTION OF DISTRICT. Provided it has no outstanding bonds or other long-term indebtedness, the district may be dissolved by a vote of two-thirds of the voters in an election called for that purpose voting in favor of dissolving the district. A dissolution election shall be called by the board following receipt of a petition signed by a number of registered voters in the district equivalent to 30 percent of the voters in the district's most recent election.

SECTION 7. BOARD OF DIRECTORS. (a) The board consists of five members. If a director appointed by the Texas Water Commission fails to qualify for office, the remaining directors shall appoint someone to fill the vacancy for the unexpired term. If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, the Texas Water Commission shall appoint the necessary number of directors to fill all vacancies on the board.

(b) The initial directors shall serve until the directors elected at the election to be held on the third Saturday in May,
1988, have qualified for office.

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all director's elections shall occur on the May general election date of even-numbered years.

SECTION 8. CONVERSION OF THE DISTRICT. The district may not be converted to any other type of conservation and reclamation district under any provision of law.

SECTION 9. BORROWING MONEY. The district may borrow money for purposes of the district authorized by law according to the provisions of Subchapter J, Chapter 51, Water Code.

SECTION 10. SEVERABILITY. If any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of the Act, and it is hereby declared to be the intention of this legislature to have passed each section, sentence, clause, or part irrespective of the fact that any other section, sentence, clause, or part may be declared invalid.

SECTION 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
S.B. No. 988

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 988 as follows:

On page 2, line 11, change current subsection (a) to (a)(1)

and between lines 14 and 15 insert new subsection (a)(2) to read:

(a)(2) The district may not adopt rules regulating zoning or

the subdivision of land.

Smith of Travis

COMMITTEE AMENDMENT NO. 2

Amend S.B. No. 988 as follows:

On page 7, line 12, after the words "Water Code." insert a

new sentence to read:

"The district may not borrow money for a period of more than

one year."

Smith of Travis

COMMITTEE AMENDMENT NO. 3

Amend S.B. 988 by adding the following new Section 10 and

renumbering existing Sections 10 and 11 accordingly:

"SECTION 10. Nothing contained in this Act affecting the

Barton Springs-Edwards Aquifer Conservation District shall

adversely affect the rights of any parties who were in litigation,

on or before February 1, 1987 with the Texas Water Commission or

the petitioners for the creation of the Barton Springs-Edwards

Aquifer Conservation District."

Smith of Travis

COMMITTEE AMENDMENT NO. 4

Amend S.B. 988 by adding a new Section 10 to read as follows

and renumbering the subsequent sections accordingly:
SECTION 10. EXCLUSION OF A COUNTY AREA.  (a) The residents
of any county area of the district may, on petition of 15 percent
of the registered voters within the county area of the district,
request that the board of directors hold a referendum, in
conjunction with the next regularly scheduled directors' election,
to determine whether or not that county area will remain within the
district. The petition must be submitted to the board of directors
not later than the 45th day before the date of the election. The
referendum shall be called and added to the ballot of the May
directors' election in the county area. Approval of the withdrawal
must be by the affirmative vote of a majority of the voters voting
on the proposition: "The __________ county area of the Barton
Springs-Edwards Aquifer Conservation District shall be withdrawn
from the Barton Springs-Edwards Aquifer Conservation District."
The withdrawal of any county area voting to withdraw from the
district is effective on June 1 following the referendum. On and
after that date, the boundaries of the district shall be redefined
to exclude the county area; the levy and collection of the
district's taxes or user fees within the county area shall cease;
the offices held by the directors elected from the county area
shall terminate; and the other matters provided by law or by
agreement with any person affecting the authority and operations of
the district shall be automatically redesignated and redefined to
be consistent with the withdrawal of the county area.
(b) A county area may not petition for exclusion from the district before the third anniversary of the confirmation election at which the creation of the district was confirmed.
COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

May 18, 1987

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,
to whom was referred SB 988 have had the same under consideration and beg to report (measure)
back with the recommendation that it

( ) do pass, without amendment.
(✓) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (✓) yes ( ) no
An actuarial analysis was requested. ( ) yes (✓) no

An author's fiscal statement was requested. (✓) yes ( ) no
The Committee recommends that this measure be placed on the (Local) Calendar.

This measure (✓) proposes new law. ( ) amends existing law.

House Sponsor of Senate Measure T. Smith

The measure was reported from Committee by the following vote:

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Total 6 aye
0 nay
0 present, not voting
3 absent

CHAIRMAN

COMMITTEE COORDINATOR
SB 988  
By: Barrientos  

Committee on Natural Resources  

BILL ANALYSIS

Background

The Edwards Aquifer, which is located between San Antonio and Austin, is one of the major aquifers in Texas. It is currently divided into two sections: the San Antonio Region and the Austin Region. The San Antonio Region is currently managed by a conservation district and called the Edwards Underground Water District. However, the Austin Region is not managed by a conservation district.

The Austin Region covers a hydrologically distinct portion of the Edwards Aquifer. That portion is especially sensitive and vulnerable to contamination. This sensitivity and vulnerability has raised public concern for groundwater protection in the Austin Region. This concern derives from the fact that a significant portion of the area population draws their drinking water from the Austin Region. Further, USGS studies show that, given the Edwards Aquifer's finite product capacity, without proper management a portion of the Austin Region will suffer severe groundwater depletion within the next 15 years.

The Texas Water Commission approved the creation of the Barton Springs-Edwards Aquifer Conservation District, which occupies a 155-square mile area in Hays and Travis Counties. The temporary board is planning a confirmation election in April, 1987.

Purpose of the Bill

This bill would validate the creation of the Barton Springs-Edwards Aquifer Conservation District and amends the powers and duties of that conservation district.

Section by Section Analysis

SECTION 1. Provides the legislature's finding that all requirements, rules, laws, and procedures have been complied with regarding the notice, introduction, and passage of this Act. Creates the Barton Springs-Edwards Aquifer Conservation District (district) as an underground conservation district under Chapter 52, Texas Water Code, subject to confirmation by district voters.

SECTION 2. (a) Provides the district with the powers and duties of Chapter 52, Texas Water Code, except as modified in this section. (b)(1) Provides that the district does not have authority to levy taxes under Section 52.351, Water Code, except as provided by subdivision 2 of this subsection. (2) Allows the district to levy a property tax if the user fee authorized by this section is held unconstitutional. (c) Authorizes the board of directors of the district (board) to impose fees on certain wells. Provides for adoption of rules relating to fees. (d)(1) Reduces the production capacity for certain exempt wells. (2) Reduces the number of households that may be supplied by certain exempt domestic wells in the
district. (e) Provides for enforcement of district rules by civil suit. (f) Provides the legislature's finding concerning Barton Springs contribution to the municipal water supply of the City of Austin and requires the City of Austin to elect two of the five members of the board. (2) Provides for an annual water use fee for the City of Austin.

SECTION 3. Expects inclusion of land within the District from municipality approval pursuant to Article 970a, T.R.C.S.

SECTION 4. Requires a confirmation election for the district's creation.

SECTION 5. Allows the service areas of certain water supply utilities to be annexed into the district on a local option basis.

SECTION 6. Provides for dissolution of the district.

SECTION 7. Provides for membership of the board. Provides the term of office for the initial board members. Provides for the term of office for board members.

SECTION 8. Prohibits the district from being converted to any other type of conservation and reclamation district.

SECTION 9. Allows the district to borrow money for certain purposes according to Subchapter J, Chapter 51, Water Code.

SECTION 10. Severability clause.

SECTION 11. Emergency clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Summary of Committee Action

Public notice was posted in accordance to the rules and a formal meeting was held on Monday, May 18, 1987, and the full committee voted to report SB 988, the Senate companion to HB 2516, to the House as amended with a recommendation that it do pass and be placed on the Local Calendar by a record vote of 6 ayes, zero nays and zero present, not voting.

Explanation of Committee Amendments

Committee Amendment 1 prohibits the district from enacting zoning or subdivision rules. Committee Amendment 2 provides that the district may not borrow money for periods longer than one year. Committee Amendment 3 provides that this Act does not affect litigation pending since February 1, 1987. Committee Amendment 4 adds a new Section 10 to provide a method whereby areas of the county may be excluded, with the limitation that residents may not petition for exclusion prior to the third anniversary of the confirmation election.
TO:    Honorable Terral Smith, Chair
       Committee on Natural Resources
       House of Representatives
       Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 988, as
engrossed (validating creation of the Barton Springs-Edwards Aquifer
Conservation District and amending the powers and duties of that district) this
office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local
government of the same type or class, no comment from this office is required by
the rules of the House as to its probable fiscal impact on units of local
government.

Source: LBB Staff: JO, HES, JWH, GL, PA
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
March 24, 1987

TO: Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 988
By: Barrientos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 988 (validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.

Source: LBB Staff: JO, HES, JWH, GL, MC
Amend S.B. No. 988 as follows:

1. On page 2, line 11, change current subsection (a) to (a)(1) and between lines 14 and 15 insert new subsection (a)(2) to read:

(a)(2) The district may not adopt rules regulating zoning or the subdivision of land.

ADOPTED

MAY 22 1937

Betty Murray
Chief Clerk
House of Representatives

5/25/87

House Am. # 0

T. Smith of Travis
Amend S.B. No. 988 as follows:

On page 7, line 12, after the words "Water Code." insert a new sentence to read:

"The district may not borrow money for a period of more than one year."
Amend S.B. 988 by adding the following new Section 10 and renumbering existing Sections 10 and 11 accordingly:

SECTION 10. Nothing contained in this Act affecting the Barton Springs-Edwards Aquifer Conservation District shall adversely affect the rights of any parties who were in litigation on or before February 1, 1987, with the Texas Water Commission or the petitioners for the creation of the Barton Springs-Edwards Aquifer Conservation District.

ADOPTED
MAY 22, 1987

Chief Clerk
House of Representatives

House Am. # 3
5/25/87
Amend S.B. 988 by adding a new Section 10 to read as follows and renumbering the subsequent sections accordingly:

SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents of any county area of the district may, on petition of 15 percent of the registered voters within the county area of the district, request that the board of directors hold a referendum, in conjunction with the next regularly scheduled directors' election, to determine whether or not that county area will remain within the district. The petition must be submitted to the board of directors not later than the 45th day before the date of the election. The referendum shall be called and added to the ballot of the May directors' election in the county area. Approval of the withdrawal must be by the affirmative vote of a majority of the voters voting on the proposition: "The __________ county area of the Barton Springs-Edwards Aquifer Conservation District shall be withdrawn from the Barton Springs-Edwards Aquifer Conservation District."

The withdrawal of any county area voting to withdraw from the district is effective on June 1 following the referendum. On and after that date, the boundaries of the district shall be redefined to exclude the county area; the levy and collection of the district's taxes or user fees within the county area shall cease; the offices held by the directors elected from the county area shall terminate; and the other matters provided by law or by agreement with any person affecting the authority and operations of the district shall be automatically redesignated and redefined to
be consistent with the withdrawal of the county area.

(b) A county area may not petition for exclusion from the
district before the third anniversary of the confirmation election
at which the creation of the district was confirmed.
AN ACT
validating creation of the Barton Springs-Edwards Aquifer
Conservation District and amending the powers and duties of that
district; providing the authority to impose penalties and water use
fees; and reducing the authorized level of taxation.

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

SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The
legislature finds that proper and legal notice of the intention to
introduce this Act, setting forth the general substance of this
Act, has been published as provided by law, and the notice and a
copy of this Act have been furnished to all persons, agencies,
officials, or entities to which they are required to be furnished
by the constitution and laws of this state, including the Governor
of Texas, who has submitted the notice and Act to the Texas Water
Commission. Also, the legislature finds that the Texas Water
Commission has filed its recommendations relating to this Act with
the governor, lieutenant governor, and speaker of the house of
representatives within the required time. The general law relating
to consent by political subdivisions to the creation of
conservation and reclamation districts and the inclusion of land in
those districts has been complied with, and all requirements of the
constitution and laws of this state and the rules and procedures of
the legislature with respect to the notice, introduction, and
passage of this Act have been fulfilled and accomplished. The
legislature hereby finds that creation of the Barton
Springs-Edwards Aquifer Conservation District (the "district"), the boundaries of which are set forth by the Texas Water Commission's August 15, 1986, order, is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit and utility, subject only to a confirmation election of the voters in the district; and as modified herein, the legislature hereby affirms, ratifies, and validates creation of the district as an underground water conservation district under Chapter 52, Water Code, pursuant to Texas Water Commission orders dated April 9, 1986; August 15, 1986; and November 19, 1986.

SECTION 2. POWERS AND DUTIES OF DISTRICT. (a)(1) The district has the powers, duties, authority, and responsibilities provided by Chapter 52, Water Code, for underground water conservation districts, except as modified in this section.

(2) The district may not adopt rules regulating zoning or the subdivision of land.

(b)(1) Except as provided by Subdivision (2) of this subsection, the district does not have the authority to levy taxes under Section 52.351, Water Code.

(2) If the user fee authorized by this section is held unconstitutional by the Texas Supreme Court, the district may levy a property tax as provided by Sections 52.351 through 52.354, Water Code. The property tax may be set in an amount of not more than three cents for each $100 valuation of property. An election must be called and held in the district to approve the property tax and a majority of the qualified voters voting at the election must
approve the tax before the tax can be levied and collected.

(c)(1) The board of directors of the district (the "board") has by rule the authority to impose reasonable fees on each well for which a permit is issued by the district and which is not exempted from regulation by the district. The fees may be assessed on an annual basis, based upon the size of column pipe used in the wells, the production capacity of the well, or actual, authorized, or anticipated pumpage. The board may utilize fees as both a regulatory mechanism and a revenue-producing mechanism.

(2) The board shall adopt rules relating to the rates of fees, the manner and form for filing reports of fees, and the manner of collection of fees.

(3) The money collected from fees may be used by the district to manage and operate the district and to pay all or part of the principal of and interest on district bonds or notes.

(d)(1) The production capacity for exempt wells within the district, as specified in Section 52.170, Water Code, is hereby reduced from 25,000 gallons per day to 10,000 gallons per day.

(2) The number of households that may be supplied by an exempt domestic well in the district, pursuant to Subdivision (2), Section 52.170, Water Code, is hereby reduced to five or less.

(e) In addition to other remedies for violations of permits, rules, or orders, the district has the power to enforce its permits, orders, and rules as follows:

(1) If it appears that a person has violated or is violating any provision of Chapter 52, Water Code, or any order, permit, or
rule of the district, the district may file civil suit in a
district court of the county in which the violation occurs to
obtain:
(A) injunctive relief to restrain the person from continuing
the violation;
(B) assessment and recovery of a civil penalty of not less
than $50 or more than $1,000 for each violation and for each day of
violation; or
(C) both injunctive relief and civil penalties.
(2) Upon application for injunctive relief and a finding
that a person is violating or threatening to violate any provision
of this Act or any rule, permit, or other order of the district,
the district court shall grant injunctive relief as the facts may
warrant.
(3) Initiation of legal action to obtain penalties shall be
authorized by resolution of the board of directors or by the
district's general manager, if authorized by the board.
(4) The district is not required to post bond or other
security with the court under this section and may recover
reasonable attorney's fees and expert witness's fees in suits
brought under this section.
(f)(1) The legislature finds that the City of Austin
currently receives, by way of the discharge of Barton Springs,
contribution to its municipal water supply in an overall volume
roughly equivalent to existing usage by other nonexempt users of
water from the aquifer, and that the City of Austin shall elect two
of the five members of the district's board of directors.

(2) The board may assess the City of Austin, as a water use fee, each year an amount not to exceed 40 percent of the total funding of the district received from water use fees assessed against Austin and other nonexempt users.

SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of land within the district that is located within the corporate limits or extraterritorial jurisdiction of a municipality does not require approval by the municipality pursuant to the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

SECTION 4. CONFIRMATION ELECTION. A confirmation election shall be held to confirm or deny the district's creation. If approved by a majority vote, the district as a whole is confirmed; if rejected by a majority of those voting, the district is not confirmed and no subsequent confirmation election may be held during the year following the election date.

SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas of Creedmoor Maha Water Supply Corporation, Goforth Water Supply Corporation, or any other water supply utility relying upon the aquifer for greater than 50 percent of its water supply but having a service area not within the management area defined by the Texas Water Commission's August 15, 1986, order, may be annexed into the district on a local option basis as provided by this section. By resolution, the governing body of the water utility may request that a local option annexation election be held within the boundaries of its service area on the date of the district's
confirmation election. Along with the resolution, the utility shall supply to the board a boundary description of its service area, sufficient to serve as election boundaries and district boundaries, and a deposit of funds to reimburse the district for the cost of conducting the election in the utility's service area. If approved by a majority of the voters in the utility service area, the area shall be included within the district for all purposes for so long as it continues to rely on the aquifer as a source of water supply.

SECTION 6. DISSOLUTION OF DISTRICT. Provided it has no outstanding bonds or other long-term indebtedness, the district may be dissolved by a vote of two-thirds of the voters in an election called for that purpose voting in favor of dissolving the district. A dissolution election shall be called by the board following receipt of a petition signed by a number of registered voters in the district equivalent to 30 percent of the voters in the district's most recent election.

SECTION 7. BOARD OF DIRECTORS. (a) The board consists of five members. If a director appointed by the Texas Water Commission fails to qualify for office, the remaining directors shall appoint someone to fill the vacancy for the unexpired term. If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, the Texas Water Commission shall appoint the necessary number of directors to fill all vacancies on the board.
(b) The initial directors shall serve until the directors elected at the election to be held on the third Saturday in May, 1988, have qualified for office.

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all director's elections shall occur on the May general election date of even-numbered years.

SECTION 8. CONVERSION OF THE DISTRICT. The district may not be converted to any other type of conservation and reclamation district under any provision of law.

SECTION 9. BORROWING MONEY. The district may borrow money for purposes of the district authorized by law according to the provisions of Subchapter J, Chapter 51, Water Code. The district may not borrow money for a period of more than one year.

SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents of any county area of the district may, on petition of 15 percent of the registered voters within the county area of the district, request that the board of directors hold a referendum, in conjunction with the next regularly scheduled directors' election, to determine whether or not that county area will remain within the district. The petition must be submitted to the board of directors not later than the 45th day before the date of the election. The referendum shall be called and added to the ballot of the May directors' election in the county area. Approval of the withdrawal must be by the affirmative vote of a majority of the voters voting
on the proposition: "The __________ county area of the Barton Springs-Edwards Aquifer Conservation District shall be withdrawn from the Barton Springs-Edwards Aquifer Conservation District."

The withdrawal of any county area voting to withdraw from the district is effective on June 1 following the referendum. On and after that date, the boundaries of the district shall be redefined to exclude the county area; the levy and collection of the district's taxes or user fees within the county area shall cease; the offices held by the directors elected from the county area shall terminate; and the other matters provided by law or by agreement with any person affecting the authority and operations of the district shall be automatically redesignated and redefined to be consistent with the withdrawal of the county area.

(b) A county area may not petition for exclusion from the district before the third anniversary of the confirmation election at which the creation of the district was confirmed.

SECTION 11. Nothing contained in this Act affecting the Barton Springs-Edwards Aquifer Conservation District shall adversely affect the rights of any parties who were in litigation on or before February 1, 1987, with the Texas Water Commission or the petitioners for the creation of the Barton Springs-Edwards Aquifer Conservation District.

SECTION 12. SEVERABILITY. If any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of the Act, and it is hereby declared to be the intention of this legislature to
have passed each section, sentence, clause, or part irrespective of
the fact that any other section, sentence, clause, or part may be
declared invalid.

SECTION 13. EMERGENCY. The importance of this legislation
and the crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
President of the Senate

I hereby certify that S.B. No. 988 passed the Senate on May 7, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 1987, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 988 passed the House, with amendments, on May 22, 1987, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor
BILL ANALYSIS

By: Barrientos

S.B. 988
Enrolled

BACKGROUND:

The Edwards Aquifer, which is located between San Antonio and Austin, is one of the major aquifers in Texas. It is currently divided into two sections: (1) the San Antonio Region; and (2) the Austin Region. The San Antonio Region is currently managed by a conservation district and called the Edwards Underground Water District. However, the Austin Region is not managed by a conservation district.

The Austin Region covers a hydrologically distinct portion of the Edwards Aquifer. That portion is especially sensitive and vulnerable to contamination. This sensitivity and vulnerability has raised public concern for groundwater protection in the Austin Region. This concern derives from the fact that a significant portion of the area population draws their drinking water from the Austin Region. Further, USGS studies show that, given the Edwards Aquifer's finite product capacity, without proper management a portion of the Austin Region will suffer severe groundwater depletion within the next 15 years.

The Texas Water Commission approved the creation of the Barton Springs-Edwards Aquifer Conservation District, which occupies a 155-square mile area in Hays and Travis Counties. The temporary board is planning a confirmation election in April, 1987.

PURPOSE:

As proposed, S.B. 988 validates the creation of the Barton Springs-Edwards Aquifer Conservation District and amends the powers and duties of that conservation district.

RULEMAKING AUTHORITY:

It is the committee's opinion that rulemaking authority is granted to the Board of Directors of the District under Section 2 of this bill.

SECTION BY SECTION ANALYSIS:

SECTION 1. Provides the legislature's finding that all requirements, rules, laws, and procedures have been complied with regarding the notice, introduction, and passage of this Act. Creates the Barton Springs-Edwards Aquifer Conservation District (district) as an underground conservation district under Chapter 52, Texas Water Code, subject to confirmation by district voters.

SECTION 2. (a) Provides the district with the powers and duties of Chapter 52, Texas Water Code, except as modified in this section.
(b)(1) Provides that the district does not have authority to levy taxes under Section 52.351, Water Code, except as provided by subdivision 2 of this subsection. (2) Allows the district to levy a property tax if the user fee authorized by this section is held unconstitutional.
(c) Authorizes the board of directors of the district (board) to impose fees on certain wells. Provides for adoption of rules relating to fees.
(d)(1) Reduces the production capacity for certain exempt wells. (2) Reduces the number of households that may be supplied by certain exempt domestic wells in the district.
(e) Provides for enforcement of district rules by civil suit.
(f)(1) Provides the legislature's finding concerning Barton Springs contribution to the municipal water supply of the City of Austin and requires the City of Austin to elect two of the five members of the board. (2) Provides for an annual water use fee for the City of Austin.

SECTION 3. Excepts inclusion of land within the District from municipality approval pursuant to Article 970a, V.T.C.S.

SECTION 4. Requires a confirmation election for the district's creation.

SECTION 5. Allows the service areas of certain water supply utilities to be annexed into the district on a local option basis.
SECTION 6. Provides for dissolution of the district.

SECTION 7. (a) Provides for membership of the board.
(b) Provides the term of office for the initial board members.
(c) Provides for the term of office for board members.

SECTION 8. Prohibits the district from being converted to any other type of conservation and reclamation district.

SECTION 9. Allows the district to borrow money for certain purposes according to Subchapter J, Chapter 51, Water Code.

SECTION 10. Provides for a referendum on the exclusion of a county area. Provides the language for the proposition to be voted on. Prohibits a county from petitioning for exclusion before the third anniversary of the election at which the district was confirmed.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Severability clause.

Effective date. Upon passage.

DBM 8.09.88
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
May 18, 1987

TO:    Honorable Terral Smith, Chair
       Committee on Natural Resources
       House of Representatives
       Austin, Texas

FROM:  Jim Oliver, Director

In Re:  Senate Bill No. 988,
        as engrossed
        By: Barrientos

In response to your request for a Fiscal Note on Senate Bill No. 988, as engrossed (validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal impact on units of local government.

Source:  LBB Staff:  JO, HES, JWH, GL, PA
TO: Honorabe H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 988 (validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.

Source: LBB Staff: JO, HES, JWH, GL, MC
A BILL TO BE ENTITLED
AN ACT validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district;

Filed with the Secretary of the Senate
MAR 1 6 1987
Read and referred to Committee on NATURAL RESOURCES
APR 28 1987
Reported favorably
Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
Laid before the Senate
MAY 7 1987
Senate and Constitutional Rules to permit consideration suspended by: unanimous consent
MAY 7 1987
Read second time, unanimously consent, and ordered engrossed by: unanimous consent, nays
Caption ordered amended to conform to the body of the bill.
MAY 7 1987
Senate and Constitutional 3 Day Rule suspended by a vote of 30 yeas, 1 nays.
MAY 7 1987
Read third time, , and passed by 31 yeas, 0 nays.

SECRETARY OF THE SENATE

OTHER ACTION:
MAY 7 1987
Engrossed
Sent to House

Engrossing Clerk

MAY 8 1987
Received from the Senate
MAY 11 1987
Read first time and referred to Committee on Natural Resources
MAY 18 1987
Reported favorably amended, sent to Printer at 7:30 pm
MAY 19 1987
Printed and Distributed 4:14 pm
MAY 19 1987
Sent to Committee on Calendars 4:13 pm
MAY 22 1987
Read Second time (amended) passed to third reading (failed)

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of year, nays present not voting.

MAY 22 1987
Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of 148 yeas, 0 nays present not voting.

MAY 22 1987
Caption ordered amended to conform to body of bill.
Returned to Senate.

CHIEF CLERK OF THE HOUSE

MAY 23 1987
Returned from House without amendment.
MAY 25 1987
Returned from House with 4 amendments.
Concurred in House amendments by a viva voce vote 29 yeas, 0 nays.
Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

Senate conferees instructed.

Senate conferees appointed: ______________________, Chairman; ______________________, and ______________________.

House granted Senate request. House conferees appointed: ______________________, Chairman; ______________________.

Conference Committee Report read and filed with the Secretary of the Senate.

Conference Committee Report adopted on the part of the House by: ______________________

{ a viva voce vote
| ______ yea, ______ nays

Conference Committee Report adopted on the part of the Senate by: ______________________

{ a viva voce vote
| ______ yea, ______ nays

OTHER ACTION:

Recommitted to Conference Committee

Conferences discharged

Conference Committee Report failed of adoption by: ______________________

{ a viva voce vote
| ______ yea, ______ nays
May 18, 1987

The Honorable Terral R. Smith, Chairman
House Natural Resources Committee
P.O. Box 2910
Austin, Texas 78769

Dear Chairman Smith:

In response to your request for an author's fiscal statement, SB 988 validating creation of the Barton Springs-Edwards Aquifer Conservation District and amending the powers and duties of that district; providing the authority to impose penalties and water use fees, the following determinations have been made.

1. No fiscal implication to the State is anticipated.

2. The City of Austin will pay an annual water use fee of $120,000.

If further information is needed, please feel free to contact me.

Sincerely,

[Signature]

Terral R. Smith

TRS/aa

DISTRICT 48 • TRAVIS COUNTY
President of the Senate

I hereby certify that S.B. No. 98 (1) passed the Senate on May 7 (2), 1987, by the following vote: Yeas 31 (3), Nays 0 (4); and that the Senate concurred in House amendments on May 23 (5), 1987, by the following vote: Yeas 29 (6), Nays 0 (7).

Speaker of the House

Secretary of the Senate

I hereby certify that S.B. No. 98 (1) passed the House, with amendment, on May 22 (8), 1987, by the following vote: Yeas 148 (9), Nays 0 (10), one present not voting.

Chief Clerk of the House

Approved:

Date

Governor