

By: Barrientos

S.B. No. 988

A BILL TO BE ENTITLED

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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

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3/25/87 4/28/87  
5/7/87

1 Springs-Edwards Aquifer Conservation District (the "district"), the  
2 boundaries of which are set forth by the Texas Water Commission's  
3 August 15, 1986, order, is feasible and practicable, that it would  
4 be a benefit to land in the district, and that it would be a public  
5 benefit and utility, subject only to a confirmation election of the  
6 voters in the district; and as modified herein, the legislature  
7 hereby affirms, ratifies, and validates creation of the district as  
8 an underground water conservation district under Chapter 52, Water  
9 Code, pursuant to Texas Water Commission orders dated April 9,  
10 1986; August 15, 1986; and November 19, 1986.

#065 P.  
11

11 SECTION 2. POWERS AND DUTIES OF DISTRICT. (a) <sup>(1)</sup> The district

12 has the powers, duties, authority, and responsibilities provided by  
13 Chapter 52, Water Code, for underground water conservation  
14 districts, except as modified in this section.

→ Insert House Am. # (1) (2)

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

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

26 (c)(1) The board of directors of the district (the "board")

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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 <sup>24</sup>  
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

\_\_\_\_.B. No. \_\_\_\_\_

1 obtain:

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

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

7 (C) both injunctive relief and civil penalties.

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

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

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

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

26 (2) The board may assess the City of Austin, as a water use

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1 fee, each year an amount not to exceed 40 percent of the total  
2 funding of the district received from water use fees assessed  
3 against Austin and other nonexempt users.

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

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

15 SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas  
16 of Creedmore Maha Water Supply Corporation, Goforth Water Supply  
17 Corporation, or any other water supply utility relying upon the  
18 aquifer for greater than 50 percent of its water supply but having  
19 a service area not within the management area defined by the Texas  
20 Water Commission's August 15, 1986, Order, may be annexed into the  
21 district on a local option basis as provided by this section. By  
22 resolution, the governing body of the water utility may request  
23 that a local option annexation election be held within the  
24 boundaries of its service area on the date of the district's  
25 confirmation election. Along with the resolution, the utility  
26 shall supply to the board a boundary description of its service

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

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

16 SECTION 7. BOARD OF DIRECTORS. (a) The board consists of  
17 five members. If a director appointed by the Texas Water  
18 Commission fails to qualify for office, the remaining directors  
19 shall appoint someone to fill the vacancy for the unexpired term.  
20 If at any time the number of qualified directors is less than three  
21 because of the failure or refusal of one or more directors to  
22 qualify or serve, because of death or incapacitation, or for any  
23 other reason, the Texas Water Commission shall appoint the  
24 necessary number of directors to fill all vacancies on the board. <sup>b(1)</sup>

25 (b) The initial directors shall serve until the directors  
26 elected at the election to be held on the third Saturday in May,

1 1988, have qualified for office.

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

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

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

*Insert House Am. # 2*  
*Insert House Am. # 3*  
*Insert House Am. # 3*

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

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

SB 980

# Austin American-Statesman

St. Sen. Gonzalo Barrientos

## AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS  
COUNTY OF TRAVIS

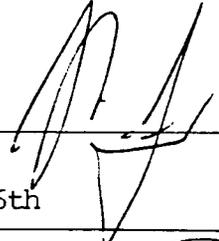
Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared:

James R. Frizzell

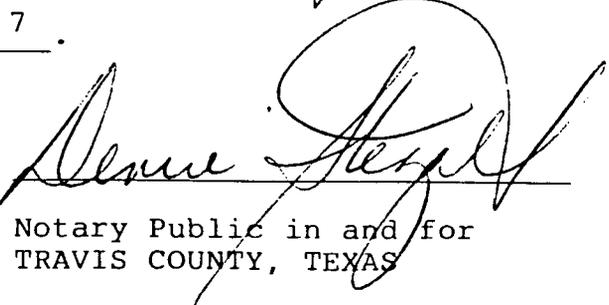
Classified Advertising Agent of the Austin American-Statesman, a daily newspaper published in said County and State, who being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit:

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.



Notary Public in and for  
TRAVIS COUNTY, TEXAS

3/3/90

Denise Stegall

(Type or Print Name of Notary)

(My Commission Expires:)

State Senator Gonzalo Barrientos  
December 18, 1986  
(Notice of Intent to Introduce)  
NOTICE  
This is to give notice of intent to introduce in the 70th Legislature, Regular Session, a bill to be entitled an Act validating creation of the Barton Springs-Edwards Aquifer Conservation District, amending the powers and duties of that District under Chapter 52, Texas Water Code, providing the authority to impose penalties and water use fees and reducing the authorized level of taxation.

1 By: Barrientos

S.B. No. 988

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

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 Santiesteban	x			
8 Montford				x
9 Armbrister	x			
10 Brown				x
11 Lyon				x
12 Sarpalius	x			
13 Sims	x			
14 Tejeda				x
15 Uribe				x
16 Whitmire	x			
17 Zaffirini	x			

19 A BILL TO BE ENTITLED  
20 AN ACT

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

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

26 SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The  
27 legislature finds that proper and legal notice of the intention to  
28 introduce this Act, setting forth the general substance of this  
29 Act, has been published as provided by law, and the notice and a  
30 copy of this Act have been furnished to all persons, agencies,  
31 officials, or entities to which they are required to be furnished  
32 by the constitution and laws of this state, including the Governor  
33 of Texas, who has submitted the notice and Act to the Texas Water  
34 Commission. Also, the legislature finds that the Texas Water  
35 Commission has filed its recommendations relating to this Act with  
36 the governor, lieutenant governor, and speaker of the house of  
37 representatives within the required time. The general law relating  
38 to consent by political subdivisions to the creation of  
39 conservation and reclamation districts and the inclusion of land in  
40 those districts has been complied with, and all requirements of the  
41 constitution and laws of this state and the rules and procedures of  
42 the legislature with respect to the notice, introduction, and  
43 passage of this Act have been fulfilled and accomplished. The  
44 legislature hereby finds that creation of the Barton  
45 Springs-Edwards Aquifer Conservation District (the "district"), the  
46 boundaries of which are set forth by the Texas Water Commission's  
47 August 15, 1986, order, is feasible and practicable, that it would  
48 be a benefit to land in the district, and that it would be a public  
49 benefit and utility, subject only to a confirmation election of the  
50 voters in the district; and as modified herein, the legislature  
51 hereby affirms, ratifies, and validates creation of the district as  
52 an underground water conservation district under Chapter 52, Water  
53 Code, pursuant to Texas Water Commission Orders dated April 9,  
54 1986; August 15, 1986; and November 19, 1986.

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

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

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

70 (c)(1) The board of directors of the district (the "board")  
71 has by rule the authority to impose reasonable fees on each well  
72 for which a permit is issued by the district and which is not

1 exempted from regulation by the district. The fees may be assessed  
 2 on an annual basis, based upon the size of column pipe used in the  
 3 wells, the production capacity of the well, or actual, authorized,  
 4 or anticipated pumpage. The board may utilize fees as both a  
 5 regulatory mechanism and a revenue-producing mechanism.

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

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 10 district to manage and operate the district and to pay all or part  
 11 of the principal of and interest on district bonds or notes.

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 13 district, as specified in Section 52.170, Water Code, is hereby  
 14 reduced from 25,000 gallons per day to 10,000 gallons per day.

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 16 exempt domestic well in the district, pursuant to Subdivision (2),  
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 19 rules, or orders, the district has the power to enforce its  
 20 permits, orders, and rules as follows:

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 22 any provision of Chapter 52, Water Code, or any order, permit, or  
 23 rule of the district, the district may file civil suit in a  
 24 district court of the county in which the violation occurs to  
 25 obtain:

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

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

31 (C) both injunctive relief and civil penalties.

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

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

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

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

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 51 fee, each year an amount not to exceed 40 percent of the total  
 52 funding of the district received from water use fee assessed  
 53 against Austin and other nonexempt users.

54 SECTION 3. MUNICIPAL APPROVAL. Approval of inclusion of  
 55 land within the district that is located within the corporate  
 56 limits or extraterritorial jurisdiction of a municipality does not  
 57 require approval by the municipality pursuant to the Municipal  
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 62 if rejected by a majority of those voting, the district is not  
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 64 during the year following the election date.

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 66 of Creedmore Maha Water Supply Corporation, Goforth Water Supply  
 67 Corporation, or any other water supply utility relying upon the  
 68 aquifer for greater than 50 percent of its water supply but having  
 69 a service area not within the management area defined by the Texas  
 70 Water Commission's August 15, 1986, Order, may be annexed into the  
 71 district on a local option basis as provided by this section. By  
 72 resolution, the governing body of the water utility may request  
 73 that a local option annexation election be held within the  
 74 boundaries of its service area on the date of the district's  
 75 confirmation election. Along with the resolution, the utility

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

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

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

26 (b) The initial directors shall serve until the directors  
27 elected at the election to be held on the third Saturday in May,  
28 1988, have qualified for office.

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

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

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

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

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

54 \* \* \* \* \*

55 Austin, Texas  
56 April 28, 1987

57 Hon. William P. Hobby  
58 President of the Senate

59 Sir:

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

64 Santiesteban, Chairman

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

4/27 2PM  
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred Sh 988 by Bamentos have on 4/27, 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 Bamentos

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	<input checked="" type="checkbox"/>			
Montford, Vice Chairman				<input checked="" type="checkbox"/>
Armbrister	<input checked="" type="checkbox"/>			
Brown				<input checked="" type="checkbox"/>
Lyon				<input checked="" type="checkbox"/>
Sarpalius	<input checked="" type="checkbox"/>			
Sims	<input checked="" type="checkbox"/>			
Tejeda				<input checked="" type="checkbox"/>
Uribe				<input checked="" type="checkbox"/>
Whitmire	<input checked="" type="checkbox"/>			
Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	6	0	0	5

Jane Pralaski  
COMMITTEE CLERK

[Signature]  
CHAIRMAN

# FILE

7087

## BILL ANALYSIS

By: Barrientos

S.B. 988  
Senate Committee  
on Natural Resources

### 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, 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.

SECTION 6. Emergency clause.  
Effective date. Upon passage.

JKC 1.16.87

# 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

MAR 26 9 37 AM '87  
RECEIVED  
SECRETARY OF SENATE

REQUEST FOR LOCAL & UNCONTESTED CALENDAR  
PLACEMENT

Hon. Roy Blake, Chairman  
Administration Committee

Sir:

Notice is hereby given that SB 988, by: Parmenter,  
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.

Jane Parmenter  
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.**

May 7 1987 Engrossed  
*Patsy Law*  
Engrossing Clerk

MAY 13 11 05 AM '87  
I certify that the attached is a true and correct  
copy of SB 988 which was  
received from the Senate MAY 8 1987 and  
referred to the Committee on Natural Resources  
*Patsy Law*  
Chief Clerk of the House

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

1 Springs-Edwards Aquifer Conservation District (the "district"), the  
 2 boundaries of which are set forth by the Texas Water Commission's  
 3 August 15, 1986, order, is feasible and practicable, that it would  
 4 be a benefit to land in the district, and that it would be a public  
 5 benefit and utility, subject only to a confirmation election of the  
 6 voters in the district; and as modified herein, the legislature  
 7 hereby affirms, ratifies, and validates creation of the district as  
 8 an underground water conservation district under Chapter 52, Water  
 9 Code, pursuant to Texas Water Commission orders dated April 9,  
 10 1986; August 15, 1986; and November 19, 1986.

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

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

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

26 (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

1 obtain:

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

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

7 (C) both injunctive relief and civil penalties.

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

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

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

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

26 (2) The board may assess the City of Austin, as a water use

1 fee, each year an amount not to exceed 40 percent of the total  
2 funding of the district received from water use fee assessed  
3 against Austin and other nonexempt users.

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

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

15 SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas  
16 of Creedmore Maha Water Supply Corporation, Goforth Water Supply  
17 Corporation, or any other water supply utility relying upon the  
18 aquifer for greater than 50 percent of its water supply but having  
19 a service area not within the management area defined by the Texas  
20 Water Commission's August 15, 1986, order, may be annexed into the  
21 district on a local option basis as provided by this section. By  
22 resolution, the governing body of the water utility may request  
23 that a local option annexation election be held within the  
24 boundaries of its service area on the date of the district's  
25 confirmation election. Along with the resolution, the utility  
26 shall supply to the board a boundary description of its service

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

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

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

25 (b) The initial directors shall serve until the directors  
26 elected at the election to be held on the third Saturday in May,

1 1988, have qualified for office.

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

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

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

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

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



1           SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents  
2 of any county area of the district may, on petition of 15 percent  
3 of the registered voters within the county area of the district,  
4 request that the board of directors hold a referendum, in  
5 conjunction with the next regularly scheduled directors' election,  
6 to determine whether or not that county area will remain within the  
7 district. The petition must be submitted to the board of directors  
8 not later than the 45th day before the date of the election. The  
9 referendum shall be called and added to the ballot of the May  
10 directors' election in the county area. Approval of the withdrawal  
11 must be by the affirmative vote of a majority of the voters voting  
12 on the proposition: "The \_\_\_\_\_ county area of the Barton  
13 Springs-Edwards Aquifer Conservation District shall be withdrawn  
14 from the Barton Springs-Edwards Aquifer Conservation District."  
15 The withdrawal of any county area voting to withdraw from the  
16 district is effective on June 1 following the referendum. On and  
17 after that date, the boundaries of the district shall be redefined  
18 to exclude the county area; the levy and collection of the  
19 district's taxes or user fees within the county area shall cease;  
20 the offices held by the directors elected from the county area  
21 shall terminate; and the other matters provided by law or by  
22 agreement with any person affecting the authority and operations of  
23 the district shall be automatically redesignated and redefined to  
24 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  
2 district before the third anniversary of the confirmation election  
3 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

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.

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

15

MAR 26 9 37 AM '87  
RECEIVED  
SECRETARY OF SENATE

# HOUSE COMMITTEE REPORT

1971 FEB 23 10 30 AM

1st. Printing

By: Barrientos  
(Smith of Travis)

S.B. No. 988

A BILL TO BE ENTITLED

1

AN ACT

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3 Conservation District and amending the powers and duties of that  
4 district; providing the authority to impose penalties and water use  
5 fees; and reducing the authorized level of taxation.

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

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SECTION 1. NOTICE, FINDINGS, AND VALIDATION. The

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legislature finds that proper and legal notice of the intention to  
9 introduce this Act, setting forth the general substance of this  
10 Act, has been published as provided by law, and the notice and a  
11 copy of this Act have been furnished to all persons, agencies,  
12 officials, or entities to which they are required to be furnished  
13 by the constitution and laws of this state, including the Governor  
14 of Texas, who has submitted the notice and Act to the Texas Water  
15 Commission. Also, the legislature finds that the Texas Water  
16 Commission has filed its recommendations relating to this Act with  
17 the governor, lieutenant governor, and speaker of the house of  
18 representatives within the required time. The general law relating  
19 to consent by political subdivisions to the creation of  
20 conservation and reclamation districts and the inclusion of land in  
21 those districts has been complied with, and all requirements of the  
22 constitution and laws of this state and the rules and procedures of  
23 the legislature with respect to the notice, introduction, and  
24 passage of this Act have been fulfilled and accomplished. The  
25 legislature hereby finds that creation of the Barton

1 Springs-Edwards Aquifer Conservation District (the "district"), the  
2 boundaries of which are set forth by the Texas Water Commission's  
3 August 15, 1986, order, is feasible and practicable, that it would  
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26 elected at the election to be held on the third Saturday in May,

1 1988, have qualified for office.

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5 conjunction with the next regularly scheduled directors' election,  
6 to determine whether or not that county area will remain within the  
7 district. The petition must be submitted to the board of directors  
8 not later than the 45th day before the date of the election. The  
9 referendum shall be called and added to the ballot of the May  
10 directors' election in the county area. Approval of the withdrawal  
11 must be by the affirmative vote of a majority of the voters voting  
12 on the proposition: "The \_\_\_\_\_ county area of the Barton  
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20 the offices held by the directors elected from the county area  
21 shall terminate; and the other matters provided by law or by  
22 agreement with any person affecting the authority and operations of  
23 the district shall be automatically redesignated and redefined to  
24 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  
2 district before the third anniversary of the confirmation election  
3 at which the creation of the district was confirmed.

4 70R8258 ELA-F

Smith of Travis

# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

May 18, 1987  
\_\_\_\_\_  
(date)

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.
- (X) 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. (X) yes ( ) no                      An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. (X) yes ( ) no

The Committee recommends that this measure be placed on the (Local) ~~( ) (Consent)~~ Calendar.

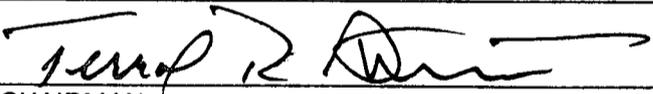
This measure (X) proposes new law. ( ) amends existing law.

House Sponsor of Senate Measure T. Smith

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Harris, J., V.C.	X			
Johnson, C., C.B.O.				X
Hammond				X
Holzheuser	X			
Russell	X			
Shelley	X			
Toomey				X
Yost	X			

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

  
 \_\_\_\_\_  
 CHAIRMAN

  
 \_\_\_\_\_  
 COMMITTEE COORDINATOR

/

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) (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, 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.

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE**

May 18, 1987

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

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

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

4

**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

15  
MAR 26 9 37 AM '87  
RECEIVED  
SECRETARY OF SENATE

COMMITTEE AMENDMENT NO. 1

BY T. Smith of Travis

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:

(2)

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

MT  
5-25-87  
Dad 5-26-87

**ADOPTED**

MAY 22 1987

*Betty Murray*  
Chief Clerk  
House of Representatives

House Am. # 1  
5/25/87

COMMITTEE AMENDMENT NO. 2

BY T. Smith

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."

mt  
5-25-87  
DW/5-28-87

**ADOPTED**

MAY 22 1987

*Betty Mansley*  
Chief Clerk  
House of Representatives

House Am. #2  
5/25/87

Amendment No. 3

House Committee  
Amendment To S.B. 988

By: T. Smith

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

*Betty Murray*  
Chief Clerk  
House of Representatives

MT  
5-25-87

House Am. # (3)  
5/25/87

**ADOPTED**

MAY 22 1987

*Betty Murray*  
Chief Clerk  
House of Representatives

*mt  
5-25-87  
DW  
5/26/87*

COMMITTEE AMENDMENT NO. 4

By T. Smith *Francis*

1 Amend S.B. 988 by adding a new Section 10 to read as follows  
2 and renumbering the subsequent sections accordingly:

3 SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents  
4 of any county area of the district may, on petition of 15 percent  
5 of the registered voters within the county area of the district,  
6 request that the board of directors hold a referendum, in  
7 conjunction with the next regularly scheduled directors' election,  
8 to determine whether or not that county area will remain within the  
9 district. The petition must be submitted to the board of directors  
10 not later than the 45th day before the date of the election. The  
11 referendum shall be called and added to the ballot of the May  
12 directors' election in the county area. Approval of the withdrawal  
13 must be by the affirmative vote of a majority of the voters voting <sup>2/5</sup>  
14 on the proposition: "The \_\_\_\_\_ county area of the Barton  
15 Springs-Edwards Aquifer Conservation District shall be withdrawn  
16 from the Barton Springs-Edwards Aquifer Conservation District."  
17 The withdrawal of any county area voting to withdraw from the  
18 district is effective on June 1 following the referendum. On and  
19 after that date, the boundaries of the district shall be redefined  
20 to exclude the county area; the levy and collection of the  
21 district's taxes or user fees within the county area shall cease;  
22 the offices held by the directors elected from the county area  
23 shall terminate; and the other matters provided by law or by  
24 agreement with any person affecting the authority and operations of  
25 the district shall be automatically redesignated and redefined to

*House Am. # 4  
5/25/87*

1 be consistent with the withdrawal of the county area.

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



1 Springs-Edwards Aquifer Conservation District (the "district"), the  
2 boundaries of which are set forth by the Texas Water Commission's  
3 August 15, 1986, order, is feasible and practicable, that it would  
4 be a benefit to land in the district, and that it would be a public  
5 benefit and utility, subject only to a confirmation election of the  
6 voters in the district; and as modified herein, the legislature  
7 hereby affirms, ratifies, and validates creation of the district as  
8 an underground water conservation district under Chapter 52, Water  
9 Code, pursuant to Texas Water Commission orders dated April 9,  
10 1986; August 15, 1986; and November 19, 1986.

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

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

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

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

11/2/81

1 approve the tax before the tax can be levied and collected.

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

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

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

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

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

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

25 (1) If it appears that a person has violated or is violating  
26 any provision of Chapter 52, Water Code, or any order, permit, or

1 rule of the district, the district may file civil suit in a  
2 district court of the county in which the violation occurs to  
3 obtain:

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

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

9 (C) both injunctive relief and civil penalties.

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

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

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

22 (f)(1) The legislature finds that the City of Austin  
23 currently receives, by way of the discharge of Barton Springs,  
24 contribution to its municipal water supply in an overall volume  
25 roughly equivalent to existing usage by other nonexempt users of  
26 water from the aquifer, and that the City of Austin shall elect two

1 of the five members of the district's board of directors.

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

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

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

17 SECTION 5. ANNEXATION OF SERVICE AREAS. The service areas  
18 of Creedmoor Maha Water Supply Corporation, Goforth Water Supply  
19 Corporation, or any other water supply utility relying upon the  
20 aquifer for greater than 50 percent of its water supply but having  
21 a service area not within the management area defined by the Texas  
22 Water Commission's August 15, 1986, order, may be annexed into the  
23 district on a local option basis as provided by this section. By  
24 resolution, the governing body of the water utility may request  
25 that a local option annexation election be held within the  
26 boundaries of its service area on the date of the district's

1 confirmation election. Along with the resolution, the utility  
2 shall supply to the board a boundary description of its service  
3 area, sufficient to serve as election boundaries and district  
4 boundaries, and a deposit of funds to reimburse the district for  
5 the cost of conducting the election in the utility's service area.  
6 If approved by a majority of the voters in the utility service  
7 area, the area shall be included within the district for all  
8 purposes for so long as it continues to rely on the aquifer as a  
9 source of water supply.

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

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

1 (b) The initial directors shall serve until the directors  
2 elected at the election to be held on the third Saturday in May,  
3 1988, have qualified for office.

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

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

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

16 SECTION 10. EXCLUSION OF A COUNTY AREA. (a) The residents  
17 of any county area of the district may, on petition of 15 percent  
18 of the registered voters within the county area of the district,  
19 request that the board of directors hold a referendum, in  
20 conjunction with the next regularly scheduled directors' election,  
21 to determine whether or not that county area will remain within the  
22 district. The petition must be submitted to the board of directors  
23 not later than the 45th day before the date of the election. The  
24 referendum shall be called and added to the ballot of the May  
25 directors' election in the county area. Approval of the withdrawal  
26 must be by the affirmative vote of a majority of the voters voting

1 on the proposition: "The \_\_\_\_\_ county area of the Barton  
 2 Springs-Edwards Aquifer Conservation District shall be withdrawn  
 3 from the Barton Springs-Edwards Aquifer Conservation District."  
 4 The withdrawal of any county area voting to withdraw from the  
 5 district is effective on June 1 following the referendum. On and  
 6 after that date, the boundaries of the district shall be redefined  
 7 to exclude the county area; the levy and collection of the  
 8 district's taxes or user fees within the county area shall cease;  
 9 the offices held by the directors elected from the county area  
 10 shall terminate; and the other matters provided by law or by  
 11 agreement with any person affecting the authority and operations of  
 12 the district shall be automatically redesignated and redefined to  
 13 be consistent with the withdrawal of the county area.

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

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

23 SECTION 12. SEVERABILITY. If any section, sentence, clause,  
 24 or part of this Act shall, for any reason, be held invalid, such  
 25 invalidity shall not affect the remaining portions of the Act, and  
 26 it is hereby declared to be the intention of this legislature to

1 have passed each section, sentence, clause, or part irrespective of  
2 the fact that any other section, sentence, clause, or part may be  
3 declared invalid.

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

468

S.B. No. 988

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

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.

SECTION 13. Emergency 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

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

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

MAR 26 9 37 AM '87  
RECEIVED  
SECRETARY OF SENATE

S. B. No. 988

By Barrueto

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; . . . .

3-12-87 Filed with the Secretary of the Senate  
MAR 16 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  
\_\_\_\_\_ years, \_\_\_\_\_ nays

MAY 7 1987 Read second time, \_\_\_\_\_, and ordered engrossed by: unanimous consent a viva voce vote  
\_\_\_\_\_ years, \_\_\_\_\_ 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 years, 1 nays.

MAY 7 1987 Read third time, \_\_\_\_\_, and passed by 31 years, 0 nays.

Betty King  
SECRETARY OF THE SENATE

OTHER ACTION:

May 7, 1987 Engrossed  
MAY 8 1987 Sent to House

Engrossing Clerk Patsy Spaw

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 18 1987

MAY 19 1987 Sent to Committee on Calendars 4:31 pm

MAY 22 1987 Read Second time (amended) passed to third reading (failed)  
by (Non-Record Vote) Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

MAY 22 1987 Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ years, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_ Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of 148 years, 0 nays 1 present not voting.

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

MAY 23 1987 Returned to Senate.

Betty Mussary  
CHIEF CLERK OF THE HOUSE

\_\_\_\_\_ Returned from House without amendment.

MAY 23 1987 Returned from House with 4 amendments.

MAY 25 1987 Concurred in House amendments by a viva voce vote 29 years, 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  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Conference Committee Report adopted on the part of the Senate by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

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State of Texas  
House of Representatives  
Austin

TERRAL R. SMITH  
STATE REPRESENTATIVE  
P.O. Box 2910  
Austin, Texas 78769  
(512) 463-0700

COMMITTEES:  
Natural Resources  
Chairman  
Criminal Jurisprudence

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,

A handwritten signature in black ink, appearing to read "Terral R. Smith", written over a horizontal line.

Terral R. Smith

TRS/aa

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DISTRICT 48 • TRAVIS COUNTY

