

of  
1995

I certify that the attached is a true and correct copy of the document which was filed of record in the Chief Clerk's Office and referred to the committee on:

Natural Resources  
*Cynthia Gehardt*  
Chief Clerk of the House

FILED MAR 02 1995

By *Cas D. Rodriguez*

H.B. 1989

A BILL TO BE ENTITLED

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AN ACT

relating to the appropriation and regulation of State water for beneficial use, including underground storage or recharge of State water in aquifers, other than that portion of Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.

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

SECTION 1. Findings and Declaration of State Policy.

(i) The Legislature finds that the underground storage or recharge of State water in aquifers constitutes a beneficial use of State water. The Legislature further finds that the use of aquifers for storage or recharge of State water (a) will (1) enhance the conservation and protection of appropriated State water by minimizing evaporation and seepage losses, (2) reduce the incidental environmental impacts associated with the construction of alternative conventional water storage facilities such as above ground reservoirs, and (3) through artificial recharge of State water enhance and protect groundwater resources, and (b) is a necessary use of State water incident to maximizing the conservation beneficial use of such water.

(ii) The Legislation finds the that the storage or recharge of State water in aquifers will not affect property rights, including the ownership and rights of owners of land and his lessees and assigns in underground water subject to the right of

1 capture, which rights are hereby recognized:

2 (iii) The Legislature finds that the storage or recharge of  
3 State water in aquifers will not affect the authority or  
4 jurisdiction of Underground Conservation Districts.

5 (iv) The Legislature finds that the use of aquifers as  
6 storage facilities for State water may relieve a portion of the  
7 economic burden upon taxpayers and utility ratepayers commonly  
8 associated with the construction of alternative conventional  
9 water storage facilities.

10 Thus, the Legislature finds that the use of aquifers  
11 for storage or recharge of appropriated State water complies with  
12 the State of Texas to protect and conserve State water, and to  
13 enhance and maximize its beneficial use, mandated by the  
14 Conservation Amendment (Tex. Const. Art XVI, ss59).

15 SECTION 2. Amending Language. In keeping with the "Findings  
16 and Declaration of State Policy" in Section 1 of this Act,  
17 Section 11.023, Water Code, is amended to add the following  
18 sections, which read as follows:

19 (i) State water may be appropriated for beneficial use for  
20 recharge, or any other beneficial use and incidental to such use  
21 may be stored in aquifers of the State for later retrieval for  
22 beneficial use on the surface.

23 (ii) Notwithstanding the authority granted in paragraph  
24 (i) of this Section, authorization to appropriate State water for  
25 recharge or injection into that portion of the Edwards Aquifer in  
26 Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties is subject  
27 to the provisions of Section 11.023(c)-(d) of this Code.

1           (iii)     The storage of State Water granted in paragraph (i)  
2 of this Section will only be authorized if it can be established  
3 by substantive evidence accompanying an application filed to  
4 appropriate State water for such purpose, or in a contested  
5 hearing by expert testimony, that an unreasonable loss State  
6 water will not occur and that the stored water can be withdrawn  
7 at a later time for application to any beneficial use authorized  
8 by statute.

9           (iv)     State water stored underground in aquifers pursuant to  
10 paragraph (i) of this section shall retain its character as State  
11 water, and remain subject (a) to the terms and conditions imposed  
12 by any permit, or amendment to any permit, authorizing such  
13 underground storage or recharge issued by the Commission, and (b)  
14 to the ongoing supervision of the Commission and any rules  
15 promulgated by the Commission within its jurisdiction. Although  
16 retaining its character as State water, any State water stored in  
17 or recharged to an aquifers pursuant to this section which  
18 becomes commingled with native groundwater may be subject to  
19 capture by the owner of real property overlying the commingled  
20 water.     Provided, further, that the potential loss of water,  
21 which may occur through the exercise of the right of capture by a  
22 landowner overlying the aquifer used for storage or recharge of  
23 State water, shall be deemed to be a beneficial use of State  
24 water, subject only to the prohibitions of Chapter 11 of this  
25 Code against waste.

26           (v)     Any person desiring to store or recharge State water in  
27 an aquifer for subsequent retrieval must so state in the

1 application to appropriate State water, or in any request for an  
2 amendment to an existing appropriation, filed with the  
3 Commission.

4 (vi) In determining whether to grant a request to allow the  
5 underground storage of appropriated State water in an aquifer,  
6 the commission shall consider whether the storage of State water  
7 in the aquifer designed to receive it will cause any alteration  
8 of the physical, chemical, or biological quality of native  
9 groundwater that would make subsequently water produced from the  
10 formation harmful, detrimental or injurious, (a) to humans,  
11 animal life, vegetation, or property, or (b) to public health,  
12 safety or welfare; or that impairs the usefulness for public  
13 enjoyment of the water to be produced from the formation for any  
14 lawful and reasonable purpose for which native quality  
15 groundwater in the formation could have been used by providing no  
16 more than the same degree of treatment.

17 (vii) As part of the application process to appropriate  
18 State water, or amend an existing appropriation, to authorize  
19 the underground storage of appropriated State surface water in an  
20 aquifer, said application shall be evaluated as a Class V Well  
21 permit application also; provided, however, that such  
22 consideration shall be consolidated into the water rights  
23 permitting process and that no separate hearing or notice shall  
24 be required for the Class V Injection Well authorization.

25 (vii) In addition to the notice requirements of Chapter 11  
26 of this Code, any person desiring to store or recharge State  
27 water in or an "Underground Water Reservoir" as that term is

H.B. \_\_\_\_\_

1 defined in Chapter 52 of this Code, pursuant to this Act shall  
2 provide copies of any required Notice to any Underground Water  
3 Conservation District with jurisdiction over said "underground  
4 water reservoir."

5 SECTION 3. Applicability of the Act. This Act applies to  
6 an application filed on or after the Effective Date of this Act  
7 for a permit or an amendment to a permit to appropriate State  
8 water, which contemplates the recharge or underground storage of  
9 State water in an aquifer other than the portion of the Edwards  
10 Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays  
11 Counties. This Act has no effect on any existing permit issued  
12 by the Commission, or any application for a permit or a amendment  
13 to a permit which contemplates the recharge or underground  
14 storage of State water that was determined to be administratively  
15 complete by the Commission on or before the Effective Date of  
16 this Act.

17 SECTION 4. Declaration of an Emergency. The importance of  
18 this legislation and the crowded condition of the calendars in  
19 both houses create an emergency and an imperative public  
20 necessity that the constitutional rule requiring bills to be read  
21 on several days in each house be suspended, and this rule is  
22 hereby suspended, and that this Act take effect and be in force  
23 from and after its passage, and it is so enacted.

for chief clerk use only

Bill or Resolution Number: 1989

**JOINT AUTHOR AUTHORIZATION**

As primary author of HB 1989 I hereby authorize the following joint author(s):  
(bill or resolution #)

✓ Rep. S. Thompson  
printed name of joint author #1

*Suzanne Thompson*  
signature of joint author #1

Rep. R. Lewis  
printed name of joint author #2

signature of joint author #2

✓ John A. Longoria  
printed name of joint author #3

*John A Longoria*  
signature of joint author #3

printed name of joint author #4

signature of joint author #4

*Paul D. Rodney*  
signature of primary author

3-28-95  
date

ORIGINAL FORM--Place in book

SEND COPIES TO:  
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Legislative Reference Library  
House Journal

# HOUSE COMMITTEE REPORT

95 APR 25 PM 3:15

HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By Rodriguez, Thompson, Lewis of Orange,  
Longoria

H.B. No. 1989

Substitute the following for H.B. No. 1989:

By Walker

C.S.H.B. No. 1989

## A BILL TO BE ENTITLED

### AN ACT

1  
2 relating to the underground storage of appropriated water  
3 incidental to a beneficial use.

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

5 SECTION 1. The legislature finds that:

6 (1) the underground storage of appropriated water,  
7 incidental to a beneficial use, is a beneficial use of water;

8 (2) the use of aquifers for storage of appropriated  
9 water:

10 (A) enhances the conservation and protection of  
11 appropriated water by minimizing seepage and evaporation losses;

12 (B) reduces the incidental environmental impacts  
13 associated with the construction of conventional water storage  
14 facilities such as aboveground reservoirs; and

15 (C) enhances and protects groundwater resources;

16 (3) the underground storage of appropriated water  
17 maximizes the conservation and beneficial use of water resources;

18 (4) the storage of appropriated water in aquifers  
19 recognizes existing property rights, including the rights of a  
20 landowner in groundwater;

21 (5) the storage of appropriated water in aquifers  
22 recognizes the authority and jurisdiction of an underground water  
23 conservation district;

24 (6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
25 Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and



1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must:

4           (1) be for only the duration of the pilot project to  
5 provide the commission and the board further opportunity to  
6 evaluate the storage of appropriated water in aquifers for  
7 subsequent retrieval and beneficial use; and

8           (2) expire on or before June 1, 1999.

9           (c) The board shall participate in the study of the pilot  
10 projects authorized by Subsection (a). The pilot projects are  
11 eligible for grants from the water loan assistance fund established  
12 by Section 15.101. The board may authorize use of money from the  
13 research and planning fund established by Section 15.402 to  
14 participate in the study of pilot projects.

15           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
16 AQUIFERS. (a) An application filed with the commission to  
17 undertake a pilot project under Section 11.153 must include:

18           (1) the information required for an application for a  
19 permit or permit amendment to appropriate water;

20           (2) all information required for an application for a  
21 permit for a Class V injection well without requiring a separate  
22 hearing or notice; and

23           (3) a map or plat showing the injection facility and  
24 the aquifer in which the water will be stored.

25           (b) If the application is for a permit or permit amendment  
26 to store appropriated water in an underground water reservoir or a  
27 subdivision of an underground water reservoir, as defined by

1 Chapter 52, that is under the jurisdiction of an underground water  
2 conservation district:

3 (1) the applicant shall:

4 (A) provide a copy of the application to each  
5 underground water conservation district that has jurisdiction over  
6 the reservoir or subdivision;

7 (B) cooperate with the districts that have  
8 jurisdiction over the reservoir or subdivision to ensure compliance  
9 with the rules of each district; and

10 (C) cooperate with each district that has  
11 jurisdiction over the reservoir or subdivision to develop rules  
12 regarding the injection, storage, and withdrawal of appropriated  
13 water stored in the aquifer; and

14 (2) the commission shall require as a condition of the  
15 permit or permit amendment that the applicant reach an agreement  
16 with each district that has jurisdiction over the reservoir or  
17 subdivision regarding the terms for the injection, storage, and  
18 withdrawal of appropriated water.

19 Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
20 completion of each pilot project, the board and the commission  
21 jointly shall:

22 (1) prepare a report evaluating the success of the  
23 project; and

24 (2) provide copies of the report to the governor,  
25 lieutenant governor, and speaker of the house of representatives.

26 (b) The board shall make other studies, investigations, and  
27 surveys of the aquifers in the state as it considers necessary to

1 determine the occurrence, quantity, quality, and availability of  
2 other aquifers in which water may be stored and subsequently  
3 retrieved for beneficial use. The board shall undertake the  
4 studies, investigations, and surveys in the following order of  
5 priority:

6 (1) the aquifers identified in Section 11.153(a);

7 (2) areas designated by the commission as "critical  
8 areas" under Section 52.053; and

9 (3) other areas of the state in a priority to be  
10 determined by the board's ranking of where the greatest need  
11 exists.

12 (c) Not later than January 1 of each odd-numbered year, the  
13 board shall prepare and provide to the legislature a report that  
14 includes at least the following information:

15 (1) the progress of the pilot projects authorized  
16 under this subchapter and of any related project;

17 (2) the results of the board's studies of the other  
18 aquifers of the state during the preceding biennium; and

19 (3) the anticipated appropriation from general  
20 revenues necessary to investigate other state aquifers during the  
21 upcoming biennium.

22 SECTION 3. (a) The change in law made by this Act applies  
23 only to an application made on or after the effective date of this  
24 Act for a permit or a permit amendment for a pilot project to  
25 appropriate water and to store appropriated water in an aquifer  
26 identified in this Act.

27 (b) A permit issued by the commission authorizing the

1 storage of appropriated water in an aquifer incident to a  
2 beneficial use before the effective date of this Act or an  
3 application for a permit or permit amendment to appropriate water  
4 that includes authorization to store appropriated water in an  
5 underground structure filed before the effective date of this Act  
6 is not affected by the changes in law made by this Act.

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

# COMMITTEE REPORT

4/10/95  
(date)

The Honorable Pete Laney  
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred H. B. 1989 have had the same under consideration and beg to report 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.
- yes  no A fiscal note was requested.
- yes  no A criminal justice policy impact statement was requested.
- yes  no An equalized educational funding impact statement was requested.
- yes  no An actuarial analysis was requested.
- yes  no A water development policy impact statement was requested.
- The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Counts, Ch.	X			
Yost, V.C.	X			
Combs	X			
Corte				X
King	X			
Lewis, R.	X			
Puente	X			
Stiles				X
Walker	X			

Total    7    aye  
           0    nay  
           0    present, not voting  
           2    absent

David Bantz  
CHAIRMAN

## BILL ANALYSIS

Natural Resources Committee  
C.S.H.B. 1989  
By: Rodriguez  
4-10-95  
Committee Report (Substituted)

### BACKGROUND

Presently, state law allows "state water" to be appropriated, stored or diverted for any "beneficial use" as mandated by the Texas Water Code, Section 11.023(b). This Section outlines the purposes for which water may be appropriated and used. This broad authorization becomes limited if the proposed use of the State water is to "recharge" the portions of the Edwards Aquifer under Kinney, Uvalde, Medina, Bexar, Comal, and Hays Counties as cited in the Texas Water Code, Section 11.023(c)-(d). In that case, the statute sets out certain requirements.

Development of new municipal water storage facilities can be achieved in an aquifer much faster than a conventional surface reservoir, which today is estimated to take approximately 20 years. Additionally, the use of aquifers for purposes of storing or recharging State water is in accordance with the State of Texas' initiative to comply with the mandate of the Texas Conservation Amendment (Tex. Const. Art XVI, §59), which constitutes protecting and conserving State water and enhancing and maximizing its beneficial use.

### PURPOSE

The purpose of this Bill is clarify the present ability, under Texas law (1) to put State water to beneficial use, and incident to such purpose store the water in an aquifer, or (2) to use such State water to recharge an aquifer other than those portions of the Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal, and Hays Counties.

This Bill does not seek to diminish the effectiveness of current State environmental law, nor does it seek to diminish the authority of underground water districts or the rights of landowners to capture water for beneficial use. Under this new legislation, all existing regulatory protection will remain in place in addition to requiring a permit from the Texas Natural Resource Conservation Commission (TNRCC) for the purpose of appropriating State water for either putting State water to beneficial use (the storing of State water in an aquifer) or for using State water for the recharging of an aquifer other than those portions of the Edwards Aquifer mentioned previously. Also, this Bill will not change existing law with regard to the Edwards Aquifer.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### SECTION BY SECTION ANALYSIS

Section 1. Legislative findings relating to the storage of State water.

Section 2. Amends Subchapter D, Chapter 11, Water Code, by adding Sections 11.153, 11.154, and 11.155, which provide as follows:

Sec. 11.153.: Provides that the Texas Natural Resource Conservation Commission (TNRCC) will encourage, by temporary or term permitting, pilot projects on storing appropriated water in certain aquifers; provides that the Texas Water Development Board (TWDB) shall participate and may authorize certain money for such projects.

Sec. 11.154.: Provides permitting procedures for permits under Section 11.153.

Sec. 11.155.: Provides that the TNRCC and the TWDB shall prepare pilot project reports and distribute them to the governor, lieutenant governor, and speaker of the house of

representatives; provides that the TWDB shall make studies, investigations, and surveys of other aquifers in which other water may be stored and retrieved for beneficial use; prioritizes such studies, investigations, and surveys; provides that, not later than January 1 of each odd-numbered year, the TWDB shall provide the legislature with a report including information on the progress of pilot and related projects, the results of studies, and the anticipated appropriation from general revenues necessary to investigate other state aquifers during the upcoming biennium.

Section 3. Provides that the change in law made by this Act applies to new applications only and does not affect permits already issued by the TNRCC, or applications determined to be administratively complete before the effective date.

Section 4. Emergency clause and effective date.

#### COMPARISON OF ORIGINAL TO SUBSTITUTE

The Original provided for statewide Aquifer storage and recovery projects and authorized the use of state water for recharge. It also gave the TNRCC authority to issue final permits or amend existing permits. The Substitute does not expressly authorize the use of state water for recharge, but does provide for encouragement of pilot projects on aquifer storage and recovery though temporary and term permitting. The Substitute limits these projects to aquifers in specified counties. The Substitute does not contain guidance criteria for issuance of final permits for storage of water.

#### SUMMARY OF COMMITTEE ACTION

H.B.1989 was considered by the committee in a public hearing on March 27, 1995. The committee considered a complete substitute for the bill. No action was taken on the substitute. The following persons testified in favor of the bill:

Mr. Ed McCarthy, representing Bexar Medina Atascosa Counties WCID and Bexar Metropolitan Water District;

Mr. David J. Davenport, Canyon Regional Water Authority, representing himself;

Mr. Louis T. Rosenberg, representing himself, Bexar Metropolitan Water District, and Canyon Regional Water Authority;

Mr. John Wendele, General Manager of and representing UGRA;

Mr. Paul B. Thornhill, representing himself.

The following persons testified against the bill:

Mr. Keith Pate, representing Evergreen Underground Water Conservation District;

Mr. Scott Holland, Irion County Water Conservation District, representing himself;

Mr. Allan J. Lange, representing Lipan-Kickapoo Water Conservation District.

The following persons testified on the bill:

Mr. Randy Williams, representing Texas Water Development Board;

Mr. C.E. Williams, representing Panhandle Ground Water Conservation District;

Mr. Richard Bowers, General Manager of and representing North Plains Ground Water Conservation District No.2;

Mr. Lee Arrington, representing South Plains Underground Water Conservation District.

The bill was referred to the Subcommittee on H.B.1989, a subcommittee consisting of Representatives King, Yost, and Walker, Chair.

H.B.1989 was considered by the Subcommittee on H.B.1989 in a public hearing on April 3, 1995. The subcommittee considered a complete substitute for the bill. No action was taken on the substitute.

The following persons testified in favor of the bill:

Mr. Ed McCarthy, representing BMA and Bexar Met. Water Districts;

Mr. John W. Ward III, President of the Board of and representing BMA Water District;

Mr. Louis T. Rosenberg, representing himself and Bexar Metropolitan Water District;

Mr. David Davenport, Canyon Regional Water Authority, representing himself;

Representative Ciro Rodriguez.

The following persons testified against the bill:

Mr. Allan J. Lange, representing Lipan-Kickapoo Water Conservation District;  
Mr. Keith Pate, representing Evergreen Underground Water Conservation District;  
Mr. Lee Arrington, representing South Plains Underground Water Conservation District.

The following person testified on the bill:

Mr. Paul D. Thornhill, CH2M Hill, representing himself;  
Dr. Tommy Knowles, representing Texas Water Development Board;  
Ms. Luana Buckner, representing herself and Medina County Underground Water District;  
Mr. Richard Bowers, representing North Plains Ground Water Conservation District No.2.

The bill was left pending.

After being recalled from subcommittee, the bill was considered by the committee in a public hearing on April 10, 1995. The committee considered a complete substitute for the bill. The substitute was adopted without objection.

No testimony was received.

The bill was reported favorably as substituted, with the recommendation that it do pass and be printed and be sent to the Committee on Local and Consent Calendars, by a record vote of 7 ayes, 0 nays, 0 pnv, 2 absent.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**74th Regular Session**

April 25, 1995

**TO:** Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

**IN RE:** Committee Substitute  
for House Bill No. 1989

**FROM:** John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 1989 (relating to the underground storage of appropriated water incidental to a beneficial use) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

**Source:** LBB Staff: JK, DF

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

March 26, 1995

**TO:** Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

**IN RE:** House Bill No. 1989  
By: Rodriguez

**FROM:** John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 1989 (Relating to the appropriation and regulation of State water for beneficial use, including underground storage or recharge of State water in aquifers, other than that portion of Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.) this office has determined the following:

The bill would authorize the appropriation of state water for groundwater recharge and storage in underground aquifers for subsequent withdrawal and use. The bill would also consolidate the permit process for an injection well required for the recharge with the water right permit for use of state water.

The implementation of the bill would require the amendment of Texas Natural Resource Conservation (TNRCC) regulations related to water rights permit applications and the development of procedures for the consolidated permit processing authorized by the bill. The actual increase in workload and costs are not expected to be significant.

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

**Source:** Natural Resource Conservation Commission  
LBB Staff: JK, JB, DF

ADOPTED

APR 28 1995

Cynthia Burkhardt  
Chief Clerk  
House of Representatives

By Rodriguez

H.B. No. 1989

Substitute the following for H.B. No. 1989:

By Walker

C.S. H.B. No. 1989

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the underground storage of appropriated water  
3 incidental to a beneficial use.

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

5 SECTION 1. The legislature finds that:

6 (1) the underground storage of appropriated water,  
7 incidental to a beneficial use, is a beneficial use of water;

8 (2) the use of aquifers for storage of appropriated  
9 water:

10 (A) enhances the conservation and protection of  
11 appropriated water by minimizing seepage and evaporation losses;

12 (B) reduces the incidental environmental impacts  
13 associated with the construction of conventional water storage  
14 facilities such as aboveground reservoirs; and

15 (C) enhances and protects groundwater resources;

16 (3) the underground storage of appropriated water  
17 maximizes the conservation and beneficial use of water resources;

18 (4) the storage of appropriated water in aquifers  
19 recognizes existing property rights, including the rights of a  
20 landowner in groundwater;

21 (5) the storage of appropriated water in aquifers  
22 recognizes the authority and jurisdiction of an underground water  
23 conservation district;

24 (6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
25 Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and

1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must:

4           (1) be for only the duration of the pilot project to  
5 provide the commission and the board further opportunity to  
6 evaluate the storage of appropriated water in aquifers for  
7 subsequent retrieval and beneficial use; and

8           (2) expire on or before June 1, 1999.

9           (c) The board shall participate in the study of the pilot  
10 projects authorized by Subsection (a). The pilot projects are  
11 eligible for grants from the water loan assistance fund established  
12 by Section 15.101. The board may authorize use of money from the  
13 research and planning fund established by Section 15.402 to  
14 participate in the study of pilot projects.

15           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
16 AQUIFERS. (a) An application filed with the commission to  
17 undertake a pilot project under Section 11.153 must include:

18           (1) the information required for an application for a  
19 permit or permit amendment to appropriate water;

20           (2) all information required for an application for a  
21 permit for a Class V injection well without requiring a separate  
22 hearing or notice; and

23           (3) a map or plat showing the injection facility and  
24 the aquifer in which the water will be stored.

25           (b) If the application is for a permit or permit amendment  
26 to store appropriated water in an underground water reservoir or a  
27 subdivision of an underground water reservoir, as defined by

1 Chapter 52, that is under the jurisdiction of an underground water  
2 conservation district:

3 (1) the applicant shall:

4 (A) provide a copy of the application to each  
5 underground water conservation district that has jurisdiction over  
6 the reservoir or subdivision;

7 (B) cooperate with the districts that have  
8 jurisdiction over the reservoir or subdivision to ensure compliance  
9 with the rules of each district; and

10 (C) cooperate with each district that has  
11 jurisdiction over the reservoir or subdivision to develop rules  
12 regarding the injection, storage, and withdrawal of appropriated  
13 water stored in the aquifer; and

14 (2) the commission shall require as a condition of the  
15 permit or permit amendment that the applicant reach an agreement  
16 with each district that has jurisdiction over the reservoir or  
17 subdivision regarding the terms for the injection, storage, and  
18 withdrawal of appropriated water.

19 Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
20 completion of each pilot project, the board and the commission  
21 jointly shall:

22 (1) prepare a report evaluating the success of the  
23 project; and

24 (2) provide copies of the report to the governor,  
25 lieutenant governor, and speaker of the house of representatives.

26 (b) The board shall make other studies, investigations, and  
27 surveys of the aquifers in the state as it considers necessary to

1 determine the occurrence, quantity, quality, and availability of  
2 other aquifers in which water may be stored and subsequently  
3 retrieved for beneficial use. The board shall undertake the  
4 studies, investigations, and surveys in the following order of  
5 priority:

6 (1) the aquifers identified in Section 11.153(a);

7 (2) areas designated by the commission as "critical  
8 areas" under Section 52.053; and

9 (3) other areas of the state in a priority to be  
10 determined by the board's ranking of where the greatest need  
11 exists.

12 (c) Not later than January 1 of each odd-numbered year, the  
13 board shall prepare and provide to the legislature a report that  
14 includes at least the following information:

15 (1) the progress of the pilot projects authorized  
16 under this subchapter and of any related project;

17 (2) the results of the board's studies of the other  
18 aquifers of the state during the preceding biennium; and

19 (3) the anticipated appropriation from general  
20 revenues necessary to investigate other state aquifers during the  
21 upcoming biennium.

22 SECTION 3. (a) The change in law made by this Act applies  
23 only to an application made on or after the effective date of this  
24 Act for a permit or a permit amendment for a pilot project to  
25 appropriate water and to store appropriated water in an aquifer  
26 identified in this Act.

27 (b) A permit issued by the commission authorizing the

1 storage of appropriated water in an aquifer incident to a  
2 beneficial use before the effective date of this Act or an  
3 application for a permit or permit amendment to appropriate water  
4 that includes authorization to store appropriated water in an  
5 underground structure filed before the effective date of this Act  
6 is not affected by the changes in law made by this Act.

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



# HOUSE ENGROSSMENT

By Rodriguez, Thompson, Lewis of Orange,  
Longoria

H.B. No. 1989

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the underground storage of appropriated water  
3 incidental to a beneficial use.

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

5 SECTION 1. The legislature finds that:

6 (1) the underground storage of appropriated water,  
7 incidental to a beneficial use, is a beneficial use of water;

8 (2) the use of aquifers for storage of appropriated  
9 water:

10 (A) enhances the conservation and protection of  
11 appropriated water by minimizing seepage and evaporation losses;

12 (B) reduces the incidental environmental impacts  
13 associated with the construction of conventional water storage  
14 facilities such as aboveground reservoirs; and

15 (C) enhances and protects groundwater resources;

16 (3) the underground storage of appropriated water  
17 maximizes the conservation and beneficial use of water resources;

18 (4) the storage of appropriated water in aquifers  
19 recognizes existing property rights, including the rights of a  
20 landowner in groundwater;

21 (5) the storage of appropriated water in aquifers  
22 recognizes the authority and jurisdiction of an underground water  
23 conservation district;

24 (6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
25 Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and

1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must:

4           (1) be for only the duration of the pilot project to  
5 provide the commission and the board further opportunity to  
6 evaluate the storage of appropriated water in aquifers for  
7 subsequent retrieval and beneficial use; and

8           (2) expire on or before June 1, 1999.

9           (c) The board shall participate in the study of the pilot  
10 projects authorized by Subsection (a). The pilot projects are  
11 eligible for grants from the water loan assistance fund established  
12 by Section 15.101. The board may authorize use of money from the  
13 research and planning fund established by Section 15.402 to  
14 participate in the study of pilot projects.

15           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
16 AQUIFERS. (a) An application filed with the commission to  
17 undertake a pilot project under Section 11.153 must include:

18           (1) the information required for an application for a  
19 permit or permit amendment to appropriate water;

20           (2) all information required for an application for a  
21 permit for a Class V injection well without requiring a separate  
22 hearing or notice; and

23           (3) a map or plat showing the injection facility and  
24 the aquifer in which the water will be stored.

25           (b) If the application is for a permit or permit amendment  
26 to store appropriated water in an underground water reservoir or a  
27 subdivision of an underground water reservoir, as defined by

1 Chapter 52, that is under the jurisdiction of an underground water  
2 conservation district:

3 (1) the applicant shall:

4 (A) provide a copy of the application to each  
5 underground water conservation district that has jurisdiction over  
6 the reservoir or subdivision;

7 (B) cooperate with the districts that have  
8 jurisdiction over the reservoir or subdivision to ensure compliance  
9 with the rules of each district; and

10 (C) cooperate with each district that has  
11 jurisdiction over the reservoir or subdivision to develop rules  
12 regarding the injection, storage, and withdrawal of appropriated  
13 water stored in the aquifer; and

14 (2) the commission shall require as a condition of the  
15 permit or permit amendment that the applicant reach an agreement  
16 with each district that has jurisdiction over the reservoir or  
17 subdivision regarding the terms for the injection, storage, and  
18 withdrawal of appropriated water.

19 Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
20 completion of each pilot project, the board and the commission  
21 jointly shall:

22 (1) prepare a report evaluating the success of the  
23 project; and

24 (2) provide copies of the report to the governor,  
25 lieutenant governor, and speaker of the house of representatives.

26 (b) The board shall make other studies, investigations, and  
27 surveys of the aquifers in the state as it considers necessary to

1 determine the occurrence, quantity, quality, and availability of  
2 other aquifers in which water may be stored and subsequently  
3 retrieved for beneficial use. The board shall undertake the  
4 studies, investigations, and surveys in the following order of  
5 priority:

6 (1) the aquifers identified in Section 11.153(a);

7 (2) areas designated by the commission as "critical  
8 areas" under Section 52.053; and

9 (3) other areas of the state in a priority to be  
10 determined by the board's ranking of where the greatest need  
11 exists.

12 (c) Not later than January 1 of each odd-numbered year, the  
13 board shall prepare and provide to the legislature a report that  
14 includes at least the following information:

15 (1) the progress of the pilot projects authorized  
16 under this subchapter and of any related project;

17 (2) the results of the board's studies of the other  
18 aquifers of the state during the preceding biennium; and

19 (3) the anticipated appropriation from general  
20 revenues necessary to investigate other state aquifers during the  
21 upcoming biennium.

22 SECTION 3. (a) The change in law made by this Act applies  
23 only to an application made on or after the effective date of this  
24 Act for a permit or a permit amendment for a pilot project to  
25 appropriate water and to store appropriated water in an aquifer  
26 identified in this Act.

27 (b) A permit issued by the commission authorizing the

1 storage of appropriated water in an aquifer incident to a  
2 beneficial use before the effective date of this Act or an  
3 application for a permit or permit amendment to appropriate water  
4 that includes authorization to store appropriated water in an  
5 underground structure filed before the effective date of this Act  
6 is not affected by the changes in law made by this Act.

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

1 By: Rodriguez, et al. (Senate Sponsor - Madla) H.B. No. 1989  
2 (In the Senate - Received from the House May 1, 1995;  
3 May 2, 1995, read first time and referred to Committee on Natural  
4 Resources; May 8, 1995, reported adversely, with favorable  
5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
6 May 8, 1995, sent to printer.)

7 COMMITTEE SUBSTITUTE FOR H.B. No. 1989 By: Armbrister

8 A BILL TO BE ENTITLED  
9 AN ACT

10 relating to the underground storage of appropriated water  
11 incidental to a beneficial use.

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

13 SECTION 1. The legislature finds that:

14 (1) the underground storage of appropriated water,  
15 incidental to a beneficial use, is a beneficial use of water;

16 (2) the use of aquifers for storage of appropriated  
17 water:

18 (A) enhances the conservation and protection of  
19 appropriated water by minimizing seepage and evaporation losses;

20 (B) reduces the incidental environmental impacts  
21 associated with the construction of conventional water storage  
22 facilities such as aboveground reservoirs; and

23 (C) enhances and protects groundwater resources;  
24 (3) the underground storage of appropriated water  
25 maximizes the conservation and beneficial use of water resources;

26 (4) the storage of appropriated water in aquifers  
27 recognizes existing property rights, including the rights of a  
28 landowner in groundwater;

29 (5) the storage of appropriated water in aquifers  
30 recognizes the authority and jurisdiction of an underground water  
31 conservation district;

32 (6) the use of aquifers for storage of appropriated  
33 water may reduce a portion of the economic burden on taxpayers and  
34 utility ratepayers associated with the construction of conventional  
35 water storage facilities;

36 (7) the successful storage of appropriated water  
37 underground has been demonstrated in Kerr County by the Upper  
38 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

39 (8) the Texas Natural Resource Conservation Commission  
40 and the Texas Water Development Board are encouraged to evaluate  
41 additional aquifers within the state to identify the potential for  
42 storage of appropriated water underground to maximize and enhance  
43 the future availability and beneficial use of the water resources  
44 of the state.

45 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
46 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

47 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
48 WATER IN AQUIFERS. (a) The commission shall investigate the  
49 feasibility of storing appropriated water in various types of  
50 aquifers around the state by encouraging the issuance of temporary  
51 or term permits for pilot demonstration projects for the storage of  
52 appropriated water for subsequent retrieval and beneficial use in  
53 the following aquifers in the specified counties:

54 (1) the Anacacho, Austin Chalk, and Glen Rose  
55 Limestone aquifers in Bexar County and Medina County;

56 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
57 Rains, and Van Zandt counties;

58 (3) the Hickory and Ellenberger aquifers in Gillespie  
59 County; and

60 (4) the Gulf Coast aquifer in Cameron and Hidalgo  
61 counties.

62 (b) A permit described by Subsection (a) must be for only  
63 the duration of the pilot project to provide the commission and the  
64 board further opportunity to evaluate the storage of appropriated  
65 water in aquifers for subsequent retrieval and beneficial use.

66 (c) At the conclusion of a pilot project, a permit holder  
67 may file an appropriate application for a permit or permit  
68 amendment. After considering the success of the project and the

1 criteria set out in Section 11.154, the commission shall determine  
 2 whether to issue a permit or permit amendment authorizing the  
 3 continued storage of appropriated water in the aquifer.

4 (d) A final order granting a permit or amendment to a permit  
 5 authorizing the storage of appropriated water in aquifers for  
 6 subsequent beneficial use, other than for the pilot projects  
 7 authorized by this section, may not be issued before June 1, 1999.

8 (e) The board shall participate in the study of the pilot  
 9 projects authorized by Subsection (a). The pilot projects are  
 10 eligible for grants from the water loan assistance fund established  
 11 by Section 15.101. The board may authorize use of money from the  
 12 research and planning fund established by Section 15.402 to  
 13 participate in the study of pilot projects.

14 Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
 15 AQUIFERS. (a) An application filed with the commission to  
 16 undertake a pilot project under Section 11.153 must include:

17 (1) the information required for an application for a  
 18 permit or permit amendment to appropriate state water;

19 (2) all information required for an application for a  
 20 permit for a Class V injection well without requiring a separate  
 21 hearing or notice; and

22 (3) a map or plat showing the injection facility and  
 23 the aquifer in which the water will be stored.

24 (b) If the application is for a permit or permit amendment  
 25 to store appropriated water in an underground water reservoir or a  
 26 subdivision of an underground water reservoir, as defined by  
 27 Chapter 52, that is under the jurisdiction of an underground water  
 28 conservation district:

29 (1) the applicant shall:

30 (A) provide a copy of the application to each  
 31 underground water conservation district that has jurisdiction over  
 32 the reservoir or subdivision;

33 (B) cooperate with the districts that have  
 34 jurisdiction over the reservoir or subdivision to ensure compliance  
 35 with the rules of each district;

36 (C) cooperate with each district that has  
 37 jurisdiction over the reservoir or subdivision to develop rules  
 38 regarding the injection, storage, and withdrawal of appropriated  
 39 water stored in the aquifer; and

40 (D) comply with the rules governing the  
 41 injection, storage, or withdrawal of appropriated water stored in  
 42 the reservoir or subdivision that are adopted by a district that  
 43 has jurisdiction over the reservoir or subdivision; and

44 (2) the commission shall require that any agreement  
 45 the applicant reaches with a district that has jurisdiction over  
 46 the reservoir or subdivision regarding the terms for the injection,  
 47 storage, and withdrawal of appropriated water be included as a  
 48 condition of the permit or permit amendment.

49 (c) On completion of a pilot project and receipt of an  
 50 appropriate application for a permit or an amendment to an existing  
 51 permit, the commission shall evaluate the success of the pilot  
 52 project for purposes of issuing a final order granting a permit or  
 53 permit amendment authorizing the storage of appropriated water  
 54 incident to a beneficial use. The commission shall consider  
 55 whether:

56 (1) the introduction of water into the aquifer will  
 57 alter the physical, chemical, or biological quality of native  
 58 groundwater to a degree that the introduction would:

59 (A) render groundwater produced from the aquifer  
 60 harmful or detrimental to people, animals, vegetation, or property;  
 61 or

62 (B) require treatment of the groundwater to a  
 63 greater extent than the native groundwater requires before being  
 64 applied to that beneficial use;

65 (2) the water stored in the receiving aquifer can be  
 66 successfully harvested from the aquifer for beneficial use; and

67 (3) the permit holder has provided evidence that  
 68 reasonable diligence will be used to protect the water stored in  
 69 the receiving aquifer from unauthorized withdrawals to the extent  
 70 necessary to maximize the permit holder's ability to retrieve and



1 beneficially use the stored water without experiencing unreasonable  
 2 loss of appropriated water.

3 (d) In making its evaluation under Subsection (c), the  
 4 commission may consider all relevant facts, including:

5 (1) the location and depth of the aquifer in which the  
 6 stored water is located;

7 (2) the nature and extent of the surface development  
 8 and activity above the stored water;

9 (3) the permit holder's ability to prevent  
 10 unauthorized withdrawals by contract or the exercise of the power  
 11 of eminent domain;

12 (4) the existence of an underground water conservation  
 13 district with jurisdiction over the aquifer storing the water and  
 14 the district's ability to adopt rules to protect stored water; and

15 (5) the existence of any other political subdivision  
 16 or state agency authorized to regulate the drilling of wells.

17 (e) A permit to store appropriated water in an underground  
 18 water reservoir or subdivision, as defined by Chapter 52, shall  
 19 provide as a condition to the permit that the permit holder shall:

20 (1) register the permit holder's injection and  
 21 recovery wells with an underground water conservation district that  
 22 has jurisdiction over the reservoir or subdivision, if any; and

23 (2) each calendar month, provide the district, if any,  
 24 with a written report showing for the previous calendar month:

25 (A) the amount of water injected for storage;  
 26 and

27 (B) the amount of water recaptured for use.

28 Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
 29 completion of each pilot project, the board and the commission  
 30 jointly shall:

31 (1) prepare a report evaluating the success of the  
 32 project; and

33 (2) provide copies of the report to the governor,  
 34 lieutenant governor, and speaker of the house of representatives.

35 (b) The board shall make other studies, investigations, and  
 36 surveys of the aquifers in the state as it considers necessary to  
 37 determine the occurrence, quantity, quality, and availability of  
 38 other aquifers in which water may be stored and subsequently  
 39 retrieved for beneficial use. The board shall undertake the  
 40 studies, investigations, and surveys in the following order of  
 41 priority:

42 (1) the aquifers identified in Section 11.153(a);

43 (2) areas designated by the commission as "critical  
 44 areas" under Section 52.053; and

45 (3) other areas of the state in a priority to be  
 46 determined by the board's ranking of where the greatest need  
 47 exists.

48 (c) Not later than January 1 of each odd-numbered year, the  
 49 board shall prepare and provide to the legislature a report that  
 50 includes at least the following information:

51 (1) the progress of the pilot projects authorized  
 52 under this subchapter and of any related project;

53 (2) the results of the board's studies of the other  
 54 aquifers of the state during the preceding biennium; and

55 (3) the anticipated appropriation from general  
 56 revenues necessary to investigate other aquifers in the state  
 57 during the upcoming biennium.

58 SECTION 3. (a) The change in law made by this Act applies  
 59 only to an application made on or after the effective date of this  
 60 Act for a permit or a permit amendment for a pilot project to  
 61 appropriate water and to store appropriated water in an aquifer  
 62 identified in this Act.

63 (b) A permit issued by the commission authorizing the  
 64 storage of appropriated water in an aquifer incident to a  
 65 beneficial use before the effective date of this Act or an  
 66 application for a permit or permit amendment to appropriate water  
 67 that includes authorization to store appropriated water in an  
 68 underground structure filed before the effective date of this Act  
 69 is not affected by the changes in law made by this Act.

70 SECTION 4. The importance of this legislation and the

1 crowded condition of the calendars in both houses create an  
2 emergency and an imperative public necessity that the  
3 constitutional rule requiring bills to be read on three several  
4 days in each house be suspended, and this rule is hereby suspended,  
5 and that this Act take effect and be in force from and after its  
6 passage, and it is so enacted.

7

\* \* \* \* \*

**FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON**

SB SCR SJR SR HB HCR HJR 1989  
 By MADLA  
(Author/Senate Sponsor)  
5/19/95  
(Date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure, have on 5/4/95, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

do pass as substituted, and be printed  
 the caption remained the same as original measure  
 the caption changed with adoption of the substitute

do pass as substituted, 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

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Sims, <del>Chairman</del>	X			
Truan, Vice-Chairman	X			
Armbrister	X			
Barrientos	X			
Bivins			X	
Brown, <u>ACTING CHAIR</u>	X			
Haywood	X			
Lucio	X			
Montford	X			
Nixon			X	
Ratliff	X			
<b>TOTAL VOTES</b>	<b>9</b>		<b>2</b>	

**COMMITTEE ACTION**

S260 Considered in public hearing

S270 Testimony taken

Carol M'Garra  
 COMMITTEE CLERK

Mann  
 CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
 Retain one copy of this form for Committee files

## BILL ANALYSIS

Senate Research Center

H.B. 1989  
By: Rodriguez (Sponsor)  
Natural Resources  
05-03-95  
Engrossed

### BACKGROUND

Presently, state law allows state water to be appropriated, stored, or diverted for any beneficial use as mandated by the Texas Water Code, Section 11.023(b), which outlines the purposes for which water may be appropriated and used. This broad authorization becomes limited if the proposed use of the state water is to recharge the portions of the Edwards Aquifer under Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties as cited in Sections 11.023(c) and (d), Water Code.

### PURPOSE

As proposed, H.B. 1989 provides for the underground storage of appropriated water incidental to a beneficial use.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

**SECTION 1.** Sets forth legislative findings in relation to underground storage of appropriated water incidental to a beneficial use.

**SECTION 2.** Amends Chapter 11D, Water Code, by adding Sections 11.153, 11.154, and 11.155, as follows:

**Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED WATER IN AQUIFERS.** (a) Requires the Natural Resource Conservation Commission (commission) to investigate the feasibility of storing appropriated water in various types of aquifers around the state by encouraging the issuance of temporary or term permits for pilot demonstration projects for the storage of appropriated water for subsequent retrieval and beneficial use in certain aquifers.

(b) Sets forth requirements for a permit described by Subsection (a).

(c) Requires the Texas Water Development Board (board) to participate in the study of the pilot projects authorized by Subsection (a). Provides that the pilot projects are eligible for grants from the water loan assistance fund established by Section 15.101. Authorizes the board to authorize use of money from the research and planning fund established by Section 15.402 to participate in the study of pilot projects.

**Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN AQUIFERS.** (a) Sets forth provisions required to be included in an application filed with the commission to undertake a pilot project under Section 11.153.

(b)(1) Sets forth requirements for an applicant applying for a permit or permit amendment to store appropriated water in an underground reservoir or a subdivision of an underground water reservoir that is under the jurisdiction of an underground water conservation district (permit).

(2) Requires the commission to require as a condition of the permit that the

applicant reach an agreement with each district that has jurisdiction over the reservoir or subdivision regarding the terms for the injection, storage, and withdrawal of appropriated water.

Sec. 11.155. **AQUIFER STORAGE PILOT PROJECT REPORTS.** (a) Requires the board and the commission, on completion of each pilot project, to jointly prepare a report evaluating the success of the project; and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Requires the board to make other studies, investigations, and surveys of the aquifers in the state as it considers necessary to determine the occurrence, quantity, quality, and availability of other aquifers in which water may be stored and subsequently retrieved for beneficial use. Sets forth the order of priority in which the board is required to undertake the studies, investigations, and surveys.

(c) Sets forth information for a report the board is required, no later than January 1 of each odd-numbered year, to prepare and provide to the legislature.

**SECTION 3.** Makes application of this Act prospective.

**SECTION 4** Emergency clause.  
Effective date: upon passage.

## BILL ANALYSIS

Senate Research Center

C.S.H.B. 1989  
By: Rodriguez (Madla)  
Natural Resources  
5-9-95  
Senate Committee Report (Substituted)

### BACKGROUND

Presently, state law allows state water to be appropriated, stored, or diverted for any beneficial use as mandated by the Texas Water Code, Section 11.023(b), which outlines the purposes for which water may be appropriated and used. This broad authorization becomes limited if the proposed use of the state water is to recharge the portions of the Edwards Aquifer under Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties as cited in Sections 11.023(c) and (d), Water Code.

### PURPOSE

As proposed, C.S.H.B. 1989 provides for the underground storage of appropriated water incidental to a beneficial use.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

**SECTION 1.** Sets forth legislative findings in relation to underground storage of appropriated water incidental to a beneficial use.

**SECTION 2.** Amends Chapter 11D, Water Code, by adding Sections 11.153, 11.154, and 11.155, as follows:

**Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED WATER IN AQUIFERS.** (a) Requires the Natural Resource Conservation Commission (commission) to investigate the feasibility of storing appropriated water in various types of aquifers around the state by encouraging the issuance of temporary or term permits for pilot demonstration projects for the storage of appropriated water for subsequent retrieval and beneficial use in certain aquifers.

(b) Sets forth requirements for a permit described by Subsection (a).

(c) Authorizes a permit holder, at the conclusion of a pilot project, to file an appropriate application for a permit or a permit amendment. Requires the commission, after considering the success of a project, to determine whether to issue a permit or permit amendment authorizing the continued storage of the appropriated water in the aquifer.

(d) Prohibits a final order granting a permit or permit amendment authorizing the storage of appropriated water for subsequent beneficial use, other than for pilot projects, from being issued before June 1, 1999.

(e) Requires the Texas Water Development Board (board) to participate in the study of the pilot projects authorized by Subsection (a). Provides that the pilot projects are eligible for grants from the water loan assistance fund established by Section 15.101. Authorizes the board to authorize use of money from the research and planning fund established by Section 15.402 to participate in the study of pilot projects.

**Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN AQUIFERS.** (a) Sets forth provisions required to be included in an application filed with the commission to undertake a pilot project under Section 11.153.

(b)(1) Sets forth requirements for an applicant applying for a permit or permit amendment to store appropriated water in an underground reservoir or a subdivision of an underground water reservoir that is under the jurisdiction of an underground water conservation district (permit).

(2) Requires the commission to require that any agreement the applicant reaches with the district that has jurisdiction over the reservoir or subdivision regarding the terms for the injection, storage, and withdrawal of appropriated water be included as a condition of the permit or permit amendment.

(c) Requires the commission, on completion of a pilot project and receipt of an appropriate permit or permit amendment application, to evaluate the success of the pilot project. Sets forth the issues the commission must consider for the purposes of issuing a final order granting a permit or permit amendment authorizing the storage of appropriated water incident to a beneficial use.

(d) Sets forth the relevant facts the commission may consider in making its evaluation.

(e) Requires a permit to store appropriated water in an underground water reservoir or subdivision to provide as a condition of the permit that the permit holder register specific kinds of wells and provide reports to districts.

**Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS.** (a) Requires the board and the commission, on completion of each pilot project, to jointly prepare a report evaluating the success of the project; and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Requires the board to make other studies, investigations, and surveys of the aquifers in the state as it considers necessary to determine the occurrence, quantity, quality, and availability of other aquifers in which water may be stored and subsequently retrieved for beneficial use. Sets forth the order of priority in which the board is required to undertake the studies, investigations, and surveys.

(c) Sets forth information for a report the board is required, no later than January 1 of each odd-numbered year, to prepare and provide to the legislature.

**SECTION 3.** Makes application of this Act prospective.

**SECTION 4** Emergency clause.  
Effective date: upon passage.

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

April 25, 1995

**TO: Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas**

**IN RE: Committee Substitute  
for House Bill No. 1989**

**FROM: John Keel, Director**

In response to your request for a Fiscal Note on House Bill No. 1989 (relating to the underground storage of appropriated water incidental to a beneficial use) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

**Source: LBB Staff: JK, DF**



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

April 25, 1995

**TO: Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas**

**IN RE: Committee Substitute  
for House Bill No. 1989**

**FROM: John Keel, Director**

**In response to your request for a Fiscal Note on House Bill No. 1989 (relating to the underground storage of appropriated water incidental to a beneficial use) this office has determined the following:**

**No significant fiscal implication to the State or units of local government is anticipated.**

**Source: LBB Staff: JK, DF**

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

March 26, 1995

**TO: Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas**

**IN RE: House Bill No. 1989  
By: Rodriguez**

**FROM: John Keel, Director**

In response to your request for a Fiscal Note on House Bill No. 1989 (Relating to the appropriation and regulation of State water for beneficial use, including underground storage or recharge of State water in aquifers, other than that portion of Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.) this office has determined the following:

The bill would authorize the appropriation of state water for groundwater recharge and storage in underground aquifers for subsequent withdrawal and use. The bill would also consolidate the permit process for an injection well required for the recharge with the water right permit for use of state water.

The implementation of the bill would require the amendment of Texas Natural Resource Conservation (TNRCC) regulations related to water rights permit applications and the development of procedures for the consolidated permit processing authorized by the bill. The actual increase in workload and costs are not expected to be significant.

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Natural Resource Conservation Commission  
LBB Staff: JK, JB, DF

NOTE

Subject: HB 1989 (BILL NO.) WITNESS - NATURAL RESOURCES
Revised: \_ WITNESS FORM
74th Legislature

COMMITTEE: Natural Resources
BILL: HB 1989

DATE: 05 04 95

Table with columns: Name, Representing, City, FOR, AGAINST, ON. Contains entries for LOUIS T. ROSENBERG, JOHN S. BRUCIAK, PAUL DEWEY THORNHILL, ED MCCARTHY, and JOHN W. WARD III.

### PART OF ###

<<<<===== E N D O F F O R M =====>>>>

ADOPTED

MAY 15 1994

*John L. ...*  
Secretary of the State

By Madda

HB. No. 1989

Substitute the following for HB. No. 1989:

By [Signature]

C.S. HB. No. 1989

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the underground storage of appropriated water  
3 incidental to a beneficial use.

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

5 SECTION 1. The legislature finds that:

6 (1) the underground storage of appropriated water,  
7 incidental to a beneficial use, is a beneficial use of water;

8 (2) the use of aquifers for storage of appropriated  
9 water:

10 (A) enhances the conservation and protection of  
11 appropriated water by minimizing seepage and evaporation losses;

12 (B) reduces the incidental environmental impacts  
13 associated with the construction of conventional water storage  
14 facilities such as aboveground reservoirs; and

15 (C) enhances and protects groundwater resources;

16 (3) the underground storage of appropriated water  
17 maximizes the conservation and beneficial use of water resources;

18 (4) the storage of appropriated water in aquifers  
19 recognizes existing property rights, including the rights of a  
20 landowner in groundwater;

21 (5) the storage of appropriated water in aquifers  
22 recognizes the authority and jurisdiction of an underground water  
23 conservation district;

24 (6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County and Medina County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
25 Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and

1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must be for only  
4 the duration of the pilot project to provide the commission and the  
5 board further opportunity to evaluate the storage of appropriated  
6 water in aquifers for subsequent retrieval and beneficial use.

7           (c) At the conclusion of a pilot project, a permit holder  
8 may file an appropriate application for a permit or permit  
9 amendment. After considering the success of the project and the  
10 criteria set out in Section 11.154, the commission shall determine  
11 whether to issue a permit or permit amendment authorizing the  
12 continued storage of appropriated water in the aquifer.

13           (d) A final order granting a permit or amendment to a permit  
14 authorizing the storage of appropriated water in aquifers for  
15 subsequent beneficial use, other than for the pilot projects  
16 authorized by this section, may not be issued before June 1, 1999.

17           (e) The board shall participate in the study of the pilot  
18 projects authorized by Subsection (a). The pilot projects are  
19 eligible for grants from the water loan assistance fund established  
20 by Section 15.101. The board may authorize use of money from the  
21 research and planning fund established by Section 15.402 to  
22 participate in the study of pilot projects.

23           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
24 AQUIFERS. (a) An application filed with the commission to  
25 undertake a pilot project under Section 11.153 must include:

26           (1) the information required for an application for a  
27 permit or permit amendment to appropriate state water;

1           (2) all information required for an application for a  
2 permit for a Class V injection well without requiring a separate  
3 hearing or notice; and

4           (3) a map or plat showing the injection facility and  
5 the aquifer in which the water will be stored.

6           (b) If the application is for a permit or permit amendment  
7 to store appropriated water in an underground water reservoir or a  
8 subdivision of an underground water reservoir, as defined by  
9 Chapter 52, that is under the jurisdiction of an underground water  
10 conservation district:

11           (1) the applicant shall:

12                   (A) provide a copy of the application to each  
13 underground water conservation district that has jurisdiction over  
14 the reservoir or subdivision;

15                   (B) cooperate with the districts that have  
16 jurisdiction over the reservoir or subdivision to ensure compliance  
17 with the rules of each district;

18                   (C) cooperate with each district that has  
19 jurisdiction over the reservoir or subdivision to develop rules  
20 regarding the injection, storage, and withdrawal of appropriated  
21 water stored in the aquifer; and

22                   (D) comply with the rules governing the  
23 injection, storage, or withdrawal of appropriated water stored in  
24 the reservoir or subdivision that are adopted by a district that  
25 has jurisdiction over the reservoir or subdivision; and

26           (2) the commission shall require that any agreement  
27 the applicant reaches with a district that has jurisdiction over

1 the reservoir or subdivision regarding the terms for the injection,  
2 storage, and withdrawal of appropriated water be included as a  
3 condition of the permit or permit amendment.

4 (c) On completion of a pilot project and receipt of an  
5 appropriate application for a permit or an amendment to an existing  
6 permit, the commission shall evaluate the success of the pilot  
7 project for purposes of issuing a final order granting a permit or  
8 permit amendment authorizing the storage of appropriated water  
9 incident to a beneficial use. The commission shall consider  
10 whether:

11 (1) the introduction of water into the aquifer will  
12 alter the physical, chemical, or biological quality of native  
13 groundwater to a degree that the introduction would:

14 (A) render groundwater produced from the aquifer  
15 harmful or detrimental to people, animals, vegetation, or property;  
16 or

17 (B) require treatment of the groundwater to a  
18 greater extent than the native groundwater requires before being  
19 applied to that beneficial use;

20 (2) the water stored in the receiving aquifer can be  
21 successfully harvested from the aquifer for beneficial use; and

22 (3) the permit holder has provided evidence that  
23 reasonable diligence will be used to protect the water stored in  
24 the receiving aquifer from unauthorized withdrawals to the extent  
25 necessary to maximize the permit holder's ability to retrieve and  
26 beneficially use the stored water without experiencing unreasonable  
27 loss of appropriated water.



1           (d) In making its evaluation under Subsection (c), the  
2 commission may consider all relevant facts, including:

3           (1) the location and depth of the aquifer in which the  
4 stored water is located;

5           (2) the nature and extent of the surface development  
6 and activity above the stored water;

7           (3) the permit holder's ability to prevent  
8 unauthorized withdrawals by contract or the exercise of the power  
9 of eminent domain;

10           (4) the existence of an underground water conservation  
11 district with jurisdiction over the aquifer storing the water and  
12 the district's ability to adopt rules to protect stored water; and

13           (5) the existence of any other political subdivision  
14 or state agency authorized to regulate the drilling of wells.

15           (e) A permit to store appropriated water in an underground  
16 water reservoir or subdivision, as defined by Chapter 52, shall  
17 provide as a condition to the permit that the permit holder shall:

18           (1) register the permit holder's injection and  
19 recovery wells with an underground water conservation district that  
20 has jurisdiction over the reservoir or subdivision, if any; and

21           (2) each calendar month, provide the district, if any,  
22 with a written report showing for the previous calendar month:

23           (A) the amount of water injected for storage;  
24 and

25           (B) the amount of water recaptured for use.

26           Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
27 completion of each pilot project, the board and the commission

1 jointly shall:

2 (1) prepare a report evaluating the success of the  
3 project; and

4 (2) provide copies of the report to the governor,  
5 lieutenant governor, and speaker of the house of representatives.

6 (b) The board shall make other studies, investigations, and  
7 surveys of the aquifers in the state as it considers necessary to  
8 determine the occurrence, quantity, quality, and availability of  
9 other aquifers in which water may be stored and subsequently  
10 retrieved for beneficial use. The board shall undertake the  
11 studies, investigations, and surveys in the following order of  
12 priority:

13 (1) the aquifers identified in Section 11.153(a);

14 (2) areas designated by the commission as "critical  
15 areas" under Section 52.053; and

16 (3) other areas of the state in a priority to be  
17 determined by the board's ranking of where the greatest need  
18 exists.

19 (c) Not later than January 1 of each odd-numbered year, the  
20 board shall prepare and provide to the legislature a report that  
21 includes at least the following information:

22 (1) the progress of the pilot projects authorized  
23 under this subchapter and of any related project;

24 (2) the results of the board's studies of the other  
25 aquifers of the state during the preceding biennium; and

26 (3) the anticipated appropriation from general  
27 revenues necessary to investigate other aquifers in the state

1 during the upcoming biennium.

2 SECTION 3. (a) The change in law made by this Act applies  
3 only to an application made on or after the effective date of this  
4 Act for a permit or a permit amendment for a pilot project to  
5 appropriate water and to store appropriated water in an aquifer  
6 identified in this Act.

7 (b) A permit issued by the commission authorizing the  
8 storage of appropriated water in an aquifer incident to a  
9 beneficial use before the effective date of this Act or an  
10 application for a permit or permit amendment to appropriate water  
11 that includes authorization to store appropriated water in an  
12 underground structure filed before the effective date of this Act  
13 is not affected by the changes in law made by this Act.

14 SECTION 4. The importance of this legislation and the  
15 crowded condition of the calendars in both houses create an  
16 emergency and an imperative public necessity that the  
17 constitutional rule requiring bills to be read on three several  
18 days in each house be suspended, and this rule is hereby suspended,  
19 and that this Act take effect and be in force from and after its  
20 passage, and it is so enacted.

ADOPTED

MAY 15 1995

*Joe Lane*  
Speaker of the House

FLOOR AMENDMENT NO. 1

BY *Zaffini*

1 Amend C.S.H.B. 1989 in Section 2 of the bill by striking  
2 proposed Section 11.153(a)(2), Water Code, and substituting:  
3 "(2) the Carrizo-Wilcox aquifer in Bexar, Webb, Smith,  
4 Wood, Rains, and Van Zandt counties;".

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By Rodriguez, Thompson, Lewis of Orange,  
Longoria

H.B. No. 1989

A BILL TO BE ENTITLED

AN ACT

relating to the underground storage of appropriated water incidental to a beneficial use.

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

SECTION 1. The legislature finds that:

(1) the underground storage of appropriated water, incidental to a beneficial use, is a beneficial use of water;

(2) the use of aquifers for storage of appropriated water:

(A) enhances the conservation and protection of appropriated water by minimizing seepage and evaporation losses;

(B) reduces the incidental environmental impacts associated with the construction of conventional water storage facilities such as aboveground reservoirs; and

(C) enhances and protects groundwater resources;

(3) the underground storage of appropriated water maximizes the conservation and beneficial use of water resources;

(4) the storage of appropriated water in aquifers recognizes existing property rights, including the rights of a landowner in groundwater;

(5) the storage of appropriated water in aquifers recognizes the authority and jurisdiction of an underground water conservation district;

(6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Smith, Wood,  
25 Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and

1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must:

4           (1) be for only the duration of the pilot project to  
5 provide the commission and the board further opportunity to  
6 evaluate the storage of appropriated water in aquifers for  
7 subsequent retrieval and beneficial use; and

8           (2) expire on or before June 1, 1999.

9           (c) The board shall participate in the study of the pilot  
10 projects authorized by Subsection (a). The pilot projects are  
11 eligible for grants from the water loan assistance fund established  
12 by Section 15.101. The board may authorize use of money from the  
13 research and planning fund established by Section 15.402 to  
14 participate in the study of pilot projects.

15           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
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17 undertake a pilot project under Section 11.153 must include:

18           (1) the information required for an application for a  
19 permit or permit amendment to appropriate water;

20           (2) all information required for an application for a  
21 permit for a Class V injection well without requiring a separate  
22 hearing or notice; and

23           (3) a map or plat showing the injection facility and  
24 the aquifer in which the water will be stored.

25           (b) If the application is for a permit or permit amendment  
26 to store appropriated water in an underground water reservoir or a  
27 subdivision of an underground water reservoir, as defined by

1 Chapter 52, that is under the jurisdiction of an underground water  
2 conservation district:

3 (1) the applicant shall:

4 (A) provide a copy of the application to each  
5 underground water conservation district that has jurisdiction over  
6 the reservoir or subdivision;

7 (B) cooperate with the districts that have  
8 jurisdiction over the reservoir or subdivision to ensure compliance  
9 with the rules of each district; and

10 (C) cooperate with each district that has  
11 jurisdiction over the reservoir or subdivision to develop rules  
12 regarding the injection, storage, and withdrawal of appropriated  
13 water stored in the aquifer; and

14 (2) the commission shall require as a condition of the  
15 permit or permit amendment that the applicant reach an agreement  
16 with each district that has jurisdiction over the reservoir or  
17 subdivision regarding the terms for the injection, storage, and  
18 withdrawal of appropriated water.

19 Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
20 completion of each pilot project, the board and the commission  
21 jointly shall:

22 (1) prepare a report evaluating the success of the  
23 project; and

24 (2) provide copies of the report to the governor,  
25 lieutenant governor, and speaker of the house of representatives.

26 (b) The board shall make other studies, investigations, and  
27 surveys of the aquifers in the state as it considers necessary to



1 determine the occurrence, quantity, quality, and availability of  
2 other aquifers in which water may be stored and subsequently  
3 retrieved for beneficial use. The board shall undertake the  
4 studies, investigations, and surveys in the following order of  
5 priority:

6 (1) the aquifers identified in Section 11.153(a);

7 (2) areas designated by the commission as "critical  
8 areas" under Section 52.053; and

9 (3) other areas of the state in a priority to be  
10 determined by the board's ranking of where the greatest need  
11 exists.

12 (c) Not later than January 1 of each odd-numbered year, the  
13 board shall prepare and provide to the legislature a report that  
14 includes at least the following information:

15 (1) the progress of the pilot projects authorized  
16 under this subchapter and of any related project;

17 (2) the results of the board's studies of the other  
18 aquifers of the state during the preceding biennium; and

19 (3) the anticipated appropriation from general  
20 revenues necessary to investigate other state aquifers during the  
21 upcoming biennium.

22 SECTION 3. (a) The change in law made by this Act applies  
23 only to an application made on or after the effective date of this  
24 Act for a permit or a permit amendment for a pilot project to  
25 appropriate water and to store appropriated water in an aquifer  
26 identified in this Act.

27 (b) A permit issued by the commission authorizing the

1 storage of appropriated water in an aquifer incident to a  
2 beneficial use before the effective date of this Act or an  
3 application for a permit or permit amendment to appropriate water  
4 that includes authorization to store appropriated water in an  
5 underground structure filed before the effective date of this Act  
6 is not affected by the changes in law made by this Act.

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

ADOPTED

MAY 15 1995

*Steve King*  
Secretary of the Senate

By Maddala

H.B. No. 1989

Substitute the following for H.B. No. 1989:

By [Signature]

C.S. H.B. No. 1989

A BILL TO BE ENTITLED

AN ACT

relating to the underground storage of appropriated water incidental to a beneficial use.

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

SECTION 1. The legislature finds that:

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(4) the storage of appropriated water in aquifers recognizes existing property rights, including the rights of a landowner in groundwater;

(5) the storage of appropriated water in aquifers recognizes the authority and jurisdiction of an underground water conservation district;

(6) the use of aquifers for storage of appropriated

1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
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26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and

1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
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3           (b) A permit described by Subsection (a) must be for only  
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6 water in aquifers for subsequent retrieval and beneficial use.

7           (c) At the conclusion of a pilot project, a permit holder  
8 may file an appropriate application for a permit or permit  
9 amendment. After considering the success of the project and the  
10 criteria set out in Section 11.154, the commission shall determine  
11 whether to issue a permit or permit amendment authorizing the  
12 continued storage of appropriated water in the aquifer.

13           (d) A final order granting a permit or amendment to a permit  
14 authorizing the storage of appropriated water in aquifers for  
15 subsequent beneficial use, other than for the pilot projects  
16 authorized by this section, may not be issued before June 1, 1999.

17           (e) The board shall participate in the study of the pilot  
18 projects authorized by Subsection (a). The pilot projects are  
19 eligible for grants from the water loan assistance fund established  
20 by Section 15.101. The board may authorize use of money from the  
21 research and planning fund established by Section 15.402 to  
22 participate in the study of pilot projects.

23           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
24 AQUIFERS. (a) An application filed with the commission to  
25 undertake a pilot project under Section 11.153 must include:

26           (1) the information required for an application for a  
27 permit or permit amendment to appropriate state water;

1           (2) all information required for an application for a  
2 permit for a Class V injection well without requiring a separate  
3 hearing or notice; and

4           (3) a map or plat showing the injection facility and  
5 the aquifer in which the water will be stored.

6           (b) If the application is for a permit or permit amendment  
7 to store appropriated water in an underground water reservoir or a  
8 subdivision of an underground water reservoir, as defined by  
9 Chapter 52, that is under the jurisdiction of an underground water  
10 conservation district:

11           (1) the applicant shall:

12                   (A) provide a copy of the application to each  
13 underground water conservation district that has jurisdiction over  
14 the reservoir or subdivision;

15                   (B) cooperate with the districts that have  
16 jurisdiction over the reservoir or subdivision to ensure compliance  
17 with the rules of each district;

18                   (C) cooperate with each district that has  
19 jurisdiction over the reservoir or subdivision to develop rules  
20 regarding the injection, storage, and withdrawal of appropriated  
21 water stored in the aquifer; and

22                   (D) comply with the rules governing the  
23 injection, storage, or withdrawal of appropriated water stored in  
24 the reservoir or subdivision that are adopted by a district that  
25 has jurisdiction over the reservoir or subdivision; and

26           (2) the commission shall require that any agreement  
27 the applicant reaches with a district that has jurisdiction over

1 the reservoir or subdivision regarding the terms for the injection,  
2 storage, and withdrawal of appropriated water be included as a  
3 condition of the permit or permit amendment.

4 (c) On completion of a pilot project and receipt of an  
5 appropriate application for a permit or an amendment to an existing  
6 permit, the commission shall evaluate the success of the pilot  
7 project for purposes of issuing a final order granting a permit or  
8 permit amendment authorizing the storage of appropriated water  
9 incident to a beneficial use. The commission shall consider  
10 whether:

11 (1) the introduction of water into the aquifer will  
12 alter the physical, chemical, or biological quality of native  
13 groundwater to a degree that the introduction would:

14 (A) render groundwater produced from the aquifer  
15 harmful or detrimental to people, animals, vegetation, or property;  
16 or

17 (B) require treatment of the groundwater to a  
18 greater extent than the native groundwater requires before being  
19 applied to that beneficial use;

20 (2) the water stored in the receiving aquifer can be  
21 successfully harvested from the aquifer for beneficial use; and

22 (3) the permit holder has provided evidence that  
23 reasonable diligence will be used to protect the water stored in  
24 the receiving aquifer from unauthorized withdrawals to the extent  
25 necessary to maximize the permit holder's ability to retrieve and  
26 beneficially use the stored water without experiencing unreasonable  
27 loss of appropriated water.

1           (d) In making its evaluation under Subsection (c), the  
2 commission may consider all relevant facts, including:

3           (1) the location and depth of the aquifer in which the  
4 stored water is located;

5           (2) the nature and extent of the surface development  
6 and activity above the stored water;

7           (3) the permit holder's ability to prevent  
8 unauthorized withdrawals by contract or the exercise of the power  
9 of eminent domain;

10           (4) the existence of an underground water conservation  
11 district with jurisdiction over the aquifer storing the water and  
12 the district's ability to adopt rules to protect stored water; and

13           (5) the existence of any other political subdivision  
14 or state agency authorized to regulate the drilling of wells.

15           (e) A permit to store appropriated water in an underground  
16 water reservoir or subdivision, as defined by Chapter 52, shall  
17 provide as a condition to the permit that the permit holder shall:

18           (1) register the permit holder's injection and  
19 recovery wells with an underground water conservation district that  
20 has jurisdiction over the reservoir or subdivision, if any; and

21           (2) each calendar month, provide the district, if any,  
22 with a written report showing for the previous calendar month:

23                   (A) the amount of water injected for storage;  
24 and

25                   (B) the amount of water recaptured for use.

26           Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
27 completion of each pilot project, the board and the commission



1 jointly shall:

2 (1) prepare a report evaluating the success of the  
3 project; and

4 (2) provide copies of the report to the governor,  
5 lieutenant governor, and speaker of the house of representatives.

6 (b) The board shall make other studies, investigations, and  
7 surveys of the aquifers in the state as it considers necessary to  
8 determine the occurrence, quantity, quality, and availability of  
9 other aquifers in which water may be stored and subsequently  
10 retrieved for beneficial use. The board shall undertake the  
11 studies, investigations, and surveys in the following order of  
12 priority:

13 (1) the aquifers identified in Section 11.153(a);

14 (2) areas designated by the commission as "critical  
15 areas" under Section 52.053; and

16 (3) other areas of the state in a priority to be  
17 determined by the board's ranking of where the greatest need  
18 exists.

19 (c) Not later than January 1 of each odd-numbered year, the  
20 board shall prepare and provide to the legislature a report that  
21 includes at least the following information:

22 (1) the progress of the pilot projects authorized  
23 under this subchapter and of any related project;

24 (2) the results of the board's studies of the other  
25 aquifers of the state during the preceding biennium; and

26 (3) the anticipated appropriation from general  
27 revenues necessary to investigate other aquifers in the state

1 during the upcoming biennium.

2 SECTION 3. (a) The change in law made by this Act applies  
3 only to an application made on or after the effective date of this  
4 Act for a permit or a permit amendment for a pilot project to  
5 appropriate water and to store appropriated water in an aquifer  
6 identified in this Act.

7 (b) A permit issued by the commission authorizing the  
8 storage of appropriated water in an aquifer incident to a  
9 beneficial use before the effective date of this Act or an  
10 application for a permit or permit amendment to appropriate water  
11 that includes authorization to store appropriated water in an  
12 underground structure filed before the effective date of this Act  
13 is not affected by the changes in law made by this Act.

14 SECTION 4. The importance of this legislation and the  
15 crowded condition of the calendars in both houses create an  
16 emergency and an imperative public necessity that the  
17 constitutional rule requiring bills to be read on three several  
18 days in each house be suspended, and this rule is hereby suspended,  
19 and that this Act take effect and be in force from and after its  
20 passage, and it is so enacted.

ADOPTED

MAY 15 1995

*John L. ...*  
Secretary of the ...

FLOOR AMENDMENT NO. 1

BY *Zaffrini*

1 Amend C.S.H.B. 1989 in Section 2 of the bill by striking  
2 proposed Section 11.153(a)(2), Water Code, and substituting:  
3 "(2) the Carrizo-Wilcox aquifer in Bexar, Webb, Smith,  
4 Wood, Rains, and Van Zandt counties;".

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

May 9, 1995

**TO: Honorable Bill Sims, Chair  
Committee on Natural Resources  
Senate  
Austin, Texas**

**IN RE: Committee Substitute  
for House Bill No. 1989  
By: Rodriguez, et al.**

**FROM: John Keel, Director**

In response to your request for a Fiscal Note on House Bill No. 1989 (Relating to the underground storage of appropriated water incidental to a beneficial use.) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

**Source: LBB Staff: JK, DF**

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE  
74th Regular Session**

April 25, 1995

**TO: Honorable David Counts, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas**

**IN RE: Committee Substitute  
for House Bill No. 1989**

**FROM: John Keel, Director**

In response to your request for a Fiscal Note on House Bill No. 1989 (relating to the underground storage of appropriated water incidental to a beneficial use) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

**Source: LBB Staff: JK, DF**

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**74th Regular Session**

March 26, 1995

**TO: Honorable David Counts, Chair**  
**Committee on Natural Resources**  
**House of Representatives**  
**Austin, Texas**

**IN RE: House Bill No. 1989**  
**By: Rodriguez**

**FROM: John Keel, Director**

In response to your request for a Fiscal Note on House Bill No. 1989 (Relating to the appropriation and regulation of State water for beneficial use, including underground storage or recharge of State water in aquifers, other than that portion of Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.) this office has determined the following:

The bill would authorize the appropriation of state water for groundwater recharge and storage in underground aquifers for subsequent withdrawal and use. The bill would also consolidate the permit process for an injection well required for the recharge with the water right permit for use of state water.

The implementation of the bill would require the amendment of Texas Natural Resource Conservation (TNRCC) regulations related to water rights permit applications and the development of procedures for the consolidated permit processing authorized by the bill. The actual increase in workload and costs are not expected to be significant.

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

**Source: Natural Resource Conservation Commission**  
**LBB Staff: JK, JB, DF**



1 water may reduce a portion of the economic burden on taxpayers and  
2 utility ratepayers associated with the construction of conventional  
3 water storage facilities;

4 (7) the successful storage of appropriated water  
5 underground has been demonstrated in Kerr County by the Upper  
6 Guadalupe River Authority in the Hosston-Sligo Aquifer; and

7 (8) the Texas Natural Resource Conservation Commission  
8 and the Texas Water Development Board are encouraged to evaluate  
9 additional aquifers within the state to identify the potential for  
10 storage of appropriated water underground to maximize and enhance  
11 the future availability and beneficial use of the water resources  
12 of the state.

13 SECTION 2. Subchapter D, Chapter 11, Water Code, is amended  
14 by adding Sections 11.153, 11.154, and 11.155 to read as follows:

15 Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED  
16 WATER IN AQUIFERS. (a) The commission shall investigate the  
17 feasibility of storing appropriated water in various types of  
18 aquifers around the state by encouraging the issuance of temporary  
19 or term permits for pilot demonstration projects for the storage of  
20 appropriated water for subsequent retrieval and beneficial use in  
21 the following aquifers in the specified counties:

22 (1) the Anacacho, Austin Chalk, and Glen Rose  
23 Limestone aquifers in Bexar County and Medina County;

24 (2) the Carrizo-Wilcox aquifer in Bexar, Webb, Smith,  
25 Wood, Rains, and Van Zandt counties;

26 (3) the Hickory and Ellenberger aquifers in Gillespie  
27 County; and



1           (4) the Gulf Coast aquifer in Cameron and Hidalgo  
2 counties.

3           (b) A permit described by Subsection (a) must be for only  
4 the duration of the pilot project to provide the commission and the  
5 board further opportunity to evaluate the storage of appropriated  
6 water in aquifers for subsequent retrieval and beneficial use.

7           (c) At the conclusion of a pilot project, a permit holder  
8 may file an appropriate application for a permit or permit  
9 amendment. After considering the success of the project and the  
10 criteria set out in Section 11.154, the commission shall determine  
11 whether to issue a permit or permit amendment authorizing the  
12 continued storage of appropriated water in the aquifer.

13           (d) A final order granting a permit or amendment to a permit  
14 authorizing the storage of appropriated water in aquifers for  
15 subsequent beneficial use, other than for the pilot projects  
16 authorized by this section, may not be issued before June 1, 1999.

17           (e) The board shall participate in the study of the pilot  
18 projects authorized by Subsection (a). The pilot projects are  
19 eligible for grants from the water loan assistance fund established  
20 by Section 15.101. The board may authorize use of money from the  
21 research and planning fund established by Section 15.402 to  
22 participate in the study of pilot projects.

23           Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN  
24 AQUIFERS. (a) An application filed with the commission to  
25 undertake a pilot project under Section 11.153 must include:

26           (1) the information required for an application for a  
27 permit or permit amendment to appropriate state water;

1           (2) all information required for an application for a  
2 permit for a Class V injection well without requiring a separate  
3 hearing or notice; and

4           (3) a map or plat showing the injection facility and  
5 the aquifer in which the water will be stored.

6           (b) If the application is for a permit or permit amendment  
7 to store appropriated water in an underground water reservoir or a  
8 subdivision of an underground water reservoir, as defined by  
9 Chapter 52, that is under the jurisdiction of an underground water  
10 conservation district:

11           (1) the applicant shall:

12                   (A) provide a copy of the application to each  
13 underground water conservation district that has jurisdiction over  
14 the reservoir or subdivision;

15                   (B) cooperate with the districts that have  
16 jurisdiction over the reservoir or subdivision to ensure compliance  
17 with the rules of each district;

18                   (C) cooperate with each district that has  
19 jurisdiction over the reservoir or subdivision to develop rules  
20 regarding the injection, storage, and withdrawal of appropriated  
21 water stored in the aquifer; and

22                   (D) comply with the rules governing the  
23 injection, storage, or withdrawal of appropriated water stored in  
24 the reservoir or subdivision that are adopted by a district that  
25 has jurisdiction over the reservoir or subdivision; and

26           (2) the commission shall require that any agreement  
27 the applicant reaches with a district that has jurisdiction over

1 the reservoir or subdivision regarding the terms for the injection,  
2 storage, and withdrawal of appropriated water be included as a  
3 condition of the permit or permit amendment.

4 (c) On completion of a pilot project and receipt of an  
5 appropriate application for a permit or an amendment to an existing  
6 permit, the commission shall evaluate the success of the pilot  
7 project for purposes of issuing a final order granting a permit or  
8 permit amendment authorizing the storage of appropriated water  
9 incident to a beneficial use. The commission shall consider  
10 whether:

11 (1) the introduction of water into the aquifer will  
12 alter the physical, chemical, or biological quality of native  
13 groundwater to a degree that the introduction would:

14 (A) render groundwater produced from the aquifer  
15 harmful or detrimental to people, animals, vegetation, or property;  
16 or

17 (B) require treatment of the groundwater to a  
18 greater extent than the native groundwater requires before being  
19 applied to that beneficial use;

20 (2) the water stored in the receiving aquifer can be  
21 successfully harvested from the aquifer for beneficial use; and

22 (3) the permit holder has provided evidence that  
23 reasonable diligence will be used to protect the water stored in  
24 the receiving aquifer from unauthorized withdrawals to the extent  
25 necessary to maximize the permit holder's ability to retrieve and  
26 beneficially use the stored water without experiencing unreasonable  
27 loss of appropriated water.

1           (d) In making its evaluation under Subsection (c), the  
2 commission may consider all relevant facts, including:

3                   (1) the location and depth of the aquifer in which the  
4 stored water is located;

5                   (2) the nature and extent of the surface development  
6 and activity above the stored water;

7                   (3) the permit holder's ability to prevent  
8 unauthorized withdrawals by contract or the exercise of the power  
9 of eminent domain;

10                   (4) the existence of an underground water conservation  
11 district with jurisdiction over the aquifer storing the water and  
12 the district's ability to adopt rules to protect stored water; and

13                   (5) the existence of any other political subdivision  
14 or state agency authorized to regulate the drilling of wells.

15           (e) A permit to store appropriated water in an underground  
16 water reservoir or subdivision, as defined by Chapter 52, shall  
17 provide as a condition to the permit that the permit holder shall:

18                   (1) register the permit holder's injection and  
19 recovery wells with an underground water conservation district that  
20 has jurisdiction over the reservoir or subdivision, if any; and

21                   (2) each calendar month, provide the district, if any,  
22 with a written report showing for the previous calendar month:

23                           (A) the amount of water injected for storage;  
24 and

25                           (B) the amount of water recaptured for use.

26           Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) On  
27 completion of each pilot project, the board and the commission

1 jointly shall:

2 (1) prepare a report evaluating the success of the  
3 project; and

4 (2) provide copies of the report to the governor,  
5 lieutenant governor, and speaker of the house of representatives.

6 (b) The board shall make other studies, investigations, and  
7 surveys of the aquifers in the state as it considers necessary to  
8 determine the occurrence, quantity, quality, and availability of  
9 other aquifers in which water may be stored and subsequently  
10 retrieved for beneficial use. The board shall undertake the  
11 studies, investigations, and surveys in the following order of  
12 priority:

13 (1) the aquifers identified in Section 11.153(a);

14 (2) areas designated by the commission as "critical  
15 areas" under Section 52.053; and

16 (3) other areas of the state in a priority to be  
17 determined by the board's ranking of where the greatest need  
18 exists.

19 (c) Not later than January 1 of each odd-numbered year, the  
20 board shall prepare and provide to the legislature a report that  
21 includes at least the following information:

22 (1) the progress of the pilot projects authorized  
23 under this subchapter and of any related project;

24 (2) the results of the board's studies of the other  
25 aquifers of the state during the preceding biennium; and

26 (3) the anticipated appropriation from general  
27 revenues necessary to investigate other aquifers in the state

1 during the upcoming biennium.

2 SECTION 3. (a) The change in law made by this Act applies  
3 only to an application made on or after the effective date of this  
4 Act for a permit or a permit amendment for a pilot project to  
5 appropriate water and to store appropriated water in an aquifer  
6 identified in this Act.

7 (b) A permit issued by the commission authorizing the  
8 storage of appropriated water in an aquifer incident to a  
9 beneficial use before the effective date of this Act or an  
10 application for a permit or permit amendment to appropriate water  
11 that includes authorization to store appropriated water in an  
12 underground structure filed before the effective date of this Act  
13 is not affected by the changes in law made by this Act.

14 SECTION 4. The importance of this legislation and the  
15 crowded condition of the calendars in both houses create an  
16 emergency and an imperative public necessity that the  
17 constitutional rule requiring bills to be read on three several  
18 days in each house be suspended, and this rule is hereby suspended,  
19 and that this Act take effect and be in force from and after its  
20 passage, and it is so enacted.

H.B. No. 1989

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1989 was passed by the House on April 28, 1995, by the following vote: Yeas 136, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1989 on May 18, 1995, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1989 was passed by the Senate, with amendments, on May 15, 1995, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor

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

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

I certify that H.B. No. 1989<sup>(1)</sup> was passed by the House on

April 28<sup>(2)</sup>, 1995, by the following vote:

Yeas 136<sup>(3)</sup>, Nays 0, 2 present, not voting<sup>(4)</sup>;

and that the House concurred in Senate amendments to H.B. No. 1989

on May 18<sup>(5)</sup>, 1995, by the following vote:

Yeas 144<sup>(6)</sup>, Nays 0, 1 present, not voting<sup>(7)</sup>.

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: CT31;

I certify that H.B. No. 1989<sup>(1)</sup> was passed by the Senate, with

amendments, on May 15<sup>(2)</sup>, 1995, by the

following vote: Yeas 31<sup>(3)</sup>, Nays 0<sup>(4)</sup>.

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: CT32;



## BILL ANALYSIS

Senate Research Center

H.B. 1989  
By: Rodriguez (Madla)  
Natural Resources  
6-21-95  
Enrolled

### BACKGROUND

Presently, state law allows state water to be appropriated, stored, or diverted for any beneficial use as mandated by the Texas Water Code, Section 11.023(b), which outlines the purposes for which water may be appropriated and used. This broad authorization becomes limited if the proposed use of the state water is to recharge the portions of the Edwards Aquifer under Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties as cited in Sections 11.023(c) and (d), Water Code.

### PURPOSE

As enrolled, H.B. 1989 provides for the underground storage of appropriated water incidental to a beneficial use.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth legislative findings in relation to underground storage of appropriated water incidental to a beneficial use.

SECTION 2. Amends Chapter 11D, Water Code, by adding Sections 11.153, 11.154, and 11.155, as follows:

Sec. 11.153. PILOT PROJECTS FOR STORAGE OF APPROPRIATED WATER IN AQUIFERS. (a) Requires the Natural Resource Conservation Commission (commission) to investigate the feasibility of storing appropriated water in various types of aquifers around the state by encouraging the issuance of temporary or term permits for pilot demonstration projects for the storage of appropriated water for subsequent retrieval and beneficial use in certain aquifers.

(b) Sets forth requirements for a permit described by Subsection (a).

(c) Authorizes a permit holder, at the conclusion of a pilot project, to file an appropriate application for a permit or a permit amendment. Requires the commission, after considering the success of a project, to determine whether to issue a permit or permit amendment authorizing the continued storage of the appropriated water in the aquifer.

(d) Prohibits a final order granting a permit or permit amendment authorizing the storage of appropriated water for subsequent beneficial use, other than for pilot projects, from being issued before June 1, 1999.

(e) Requires the Texas Water Development Board (board) to participate in the study of the pilot projects authorized by Subsection (a). Provides that the pilot projects are eligible for grants from the water loan assistance fund established by Section 15.101. Authorizes the board to authorize use of money from the research and planning fund established by Section 15.402 to participate in the study of pilot projects.

Sec. 11.154. PERMITS TO STORE APPROPRIATED WATER IN AQUIFERS. (a) Sets forth provisions required to be included in an application filed with the commission to undertake a pilot project under Section 11.153.

(b)(1) Sets forth requirements for an applicant applying for a permit or permit amendment to store appropriated water in an underground reservoir or a subdivision of an underground water reservoir that is under the jurisdiction of an underground water conservation district (permit).

(2) Requires the commission to require that any agreement the applicant reaches with the district that has jurisdiction over the reservoir or subdivision regarding the terms for the injection, storage, and withdrawal of appropriated water be included as a condition of the permit or permit amendment.

(c) Requires the commission, on completion of a pilot project and receipt of an appropriate permit or permit amendment application, to evaluate the success of the pilot project. Sets forth the issues the commission must consider for the purposes of issuing a final order granting a permit or permit amendment authorizing the storage of appropriated water incident to a beneficial use.

(d) Sets forth the relevant facts the commission may consider in making its evaluation.

(e) Requires a permit to store appropriated water in an underground water reservoir or subdivision to provide as a condition of the permit that the permit holder register specific kinds of wells and provide reports to districts.

Sec. 11.155. AQUIFER STORAGE PILOT PROJECT REPORTS. (a) Requires the board and the commission, on completion of each pilot project, to jointly prepare a report evaluating the success of the project; and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Requires the board to make other studies, investigations, and surveys of the aquifers in the state as it considers necessary to determine the occurrence, quantity, quality, and availability of other aquifers in which water may be stored and subsequently retrieved for beneficial use. Sets forth the order of priority in which the board is required to undertake the studies, investigations, and surveys.

(c) Sets forth information for a report the board is required, no later than January 1 of each odd-numbered year, to prepare and provide to the legislature.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.  
Effective date: upon passage.

**AN ACT**

Relating to other appropriation and regulation of State water for beneficial use, including underground storage or recharge of State water in aquifers, other than that portion of Edwards Aquifer in Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.

MAR 02 1995

Filed with the Chief Clerk

MAR 6 1995

Read first time and referred to Committee on NATURAL RESOURCES

4-10-95

Reported favorably (as amended)  
(as substituted)

APR 25 1995

Sent to Committee on (Calendars)  
(Local & Consent Calendars)

APR 28 1995

Read second time (comm. subst.) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

APR 28 1995

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote)  
(record vote of 136 yeas, 0 nays, 2 present, not voting)

APR 28 1995

Engrossed

MAY 01 1995

Sent to Senate

*Cynthia Gerhardt*

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 01 1995

Received from the House

MAY 02 1995

Read and referred to Committee on NATURAL RESOURCES

Reported favorably

MAY 08 1995

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

MAY 15 1995

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

MAY 15 1995

Read second time, amended, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

MAY 15 1995

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 15 1995

Read third time, \_\_\_\_\_, and passed by (a viva voce vote)  
(31 yeas, 0 nays)

5-15-95

Returned to the House

*Betty King*  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

**MAY 15 1995**

Returned from the Senate (as substituted)  
(with amendments)

**MAY 18 1995**

House concurred in Senate amendments by a ~~(non-record vote)~~  
(record vote of 144 yeas, 0 nays, 1 present, not voting)

House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,

Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;

Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

55 JUL 15 PM 3:20

HOUSE OF REPRESENTATIVES

95 APR 25 PM 3:15

HOUSE OF REPRESENTATIVES