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Why state lawmakers are wading into a Hill Country water fight

Legislators have filed dueling bills -- one that gives the Hays Trinity water district more power, another that kills its authority over firms like Aqua Texas.

By **Liz Teitz**, *Staff Writer*


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Jacob's Well in Wimberley is seen in January 2023, nearly a year into its ongoing stretch of below-normal flows. The famed swimming hole flows from the Trinity Aquifer, a groundwater system that runs below western Hays County. The groundwater conservation district tasked with managing that aquifer is seeking more authority, while a Hill Country legislator is working to curtail it.

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State legislators have filed dueling bills seeking to change the powers of a Hays County water district — the latest steps in a complicated fight over groundwater management and control in the area.

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The Hays Trinity Groundwater Conservation District, tasked with managing the Trinity Aquifer in Hays County, has been battling for several years with some of its largest permit holders over their water usage during drought conditions. It's currently involved in lawsuits with two local water utility companies, Aqua Texas and the Dripping Springs Water Supply Corporation, both of which the district accuses of pumping more water than allowed under mandatory drought cutbacks.

Under a bill filed by Rep. Carrie Isaac, a New Braunfels Republican, the water district would no longer have any authority over those wells, exempting the companies and any other public water supply wells from "regulation, permitting or metering by the Hays Trinity Groundwater Conservation District."

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In a statement posted on social media, Isaac said the legislation is an effort to protect private property rights. She also said the bill was filed in response to another pending bill, filed by Sen. Charles Perry, a Lubbock Republican who has been leading the Senate's efforts on water this session.

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Perry's bill would increase the water district's authority, giving it many of the same powers as neighboring districts, including the authority to charge production fees on some wells.

Local officials have backed Perry's bill, calling it necessary to protect groundwater resources, while at least one local company is supporting Isaac's move to free themselves from regulation.

All of the district's monitor wells are currently measuring below their 50th percentile, and the district has implemented emergency drought curtailments.

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How groundwater is managed

In Texas, groundwater conservation districts are local entities that manage and plan for the conservation and development of underground water supplies.

The Hays Trinity district manages a portion of the Trinity Aquifer, which runs through more than 21,000 square miles of Texas. It's considered one of the "most extensive and highly used groundwater resources in Texas" by the Texas Water Development Board, and the aquifer is recharged by fractures in the surface that let rainfall enter the system.

The water district's jurisdiction is the western side of Hays County, including the cities of Wimberley and Dripping Springs. The population within the boundaries is more than 53,000, according to the district, up from about 36,500 people in 2010.

The district implements pumping limits during drought conditions, similar to those imposed by the Edwards Aquifer Authority. There are currently 30% to 40% cutbacks in place in different parts of the county.

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The water district has repeatedly accused Aqua Texas of violating those restrictions in its systems in the Woodcreek and Wimberley areas. The district said the company pumped almost twice as much water as was allowed to in 2022 and fined the company almost \$489,000 for the violation.

In December 2023, Aqua Texas — which is part of the Pennsylvania-based company Aqua — sued the district, calling the fines illegal and accusing the district of "unfair

and unequal treatment.” A federal judge dismissed some of Aqua Texas' claims, but others are still pending in the U.S. District Court for the Western District of Texas.

Aqua Texas is not the only company the groundwater district has tangled with. In February, the district filed a lawsuit in state court against the Dripping Springs Water Supply Corporation, accusing the water utility of pumping 28 million gallons more than permitted in 2023, and doing so “due to voluntary sales to bulk water supply customers.” Water supply corporations are nonprofit, member-owned corporations that are run by elected boards.

Senate Bill 2660: Expanding authority

Under existing state law, the Hays Trinity district can only charge fees for new water utility service connections, new well construction and permit renewal. Any other fees and taxes are prohibited.

Perry’s bill would allow the water district to impose a production fee for groundwater pumped from wells in its regulatory area. The fees could be up to 38 cents per 1,000 gallons of groundwater withdrawn, and the bill would allow that money to be used for “any lawful purpose.” Wells that are used exclusively for agriculture would be exempt, as would other wells specifically exempt under district rules. Those currently include wells used for a single home capable of producing less than 25,000 gallons per day.

Perry’s bill would also allow the water district's board of directors to be paid and would repeal a ban on adopting standards for residential wells “that are more stringent than state standards for a residential well.”

Perry’s office did not respond to an interview request. Perry is chairman of the Senate’s Water, Agriculture and Rural Affairs Committee, and the architect of a plan

to invest billions into developing new water sources for Texas.

During the previous legislative session, Perry worked on a similar bill for the Barton Springs Edwards Aquifer Conservation District, which manages groundwater on the eastern side of Hays County, said Charlie Flatten, general manager for the Hays Trinity district.

Perry's current bill would give Hays Trinity district "the same management ability on the western side of Hays County," he said in an email.

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The bill "reverses decades of special-interest restrictions imposed on the community which have hamstrung the ability of the District to protect the aquifer and local wells," Flatten said.

The community would benefit from "enhanced groundwater property rights protection from large utilities and other commercial pumpers," he said, and the district would benefit from reasonable production fees on commercial and utility wells.

"That production fee is the same rate seen in eastern Hays County, so that all landowners in Hays County are on equal footing, and would add between \$2 and \$4 per month to the water bill of a typical water utility bill," he said.

"Without a Groundwater Conservation District, any current or future user could pump the aquifer dry and send that water anywhere, legally," Flatten said.

The Hays County Commissioners Court voted unanimously in March to support the bill. Its resolution said that without reasonable regulation by conservation districts, there could be "irreparable damage" to natural resources, and "property rights may be

infringed upon by the commercial production of groundwater that results in the malicious drainage of the landowner's real property.”

The commissioners court said funding is needed to properly manage groundwater, and that the district's current primary funding source, permitting fees, will decline over time as all available water is allocated to permits.

“In a certain sense, we're cutting our nose off to spite our face,” Commissioner Walt Smith said, because the district's funding to protect the aquifer requires permitting more well production from the aquifer. “More wells is their funding mechanism and really, I don't want to see any more wells,” he said.

Perry's bill would give the Hays Trinity district “the same amount of power and abilities that 99% of the other conservation districts in Texas have,” Commissioner Morgan Hammer said in an interview. Her district includes the area served by Aqua Texas, and she said the company's actions are behind many of her concerns about needing stronger groundwater management.

She said she doesn't support regulating or metering domestic or agricultural wells, and wouldn't support any rule change that would permit that, and noted that the district would still not be allowed to implement taxes that other districts have in place.

The Wimberley and Woodcreek city councils both voted unanimously to approve resolutions in favor of the Senate bill, and the Watershed Association, a nonprofit based in Wimberley that works on water issues in the Hill Country, is circulating a petition for residents to sign in support.

“Senate Bill 2660 is an attempt to level the playing field for the Hays Trinity Groundwater Conservation District,” Executive Director David Baker said.

“It’s just fair that this district is given the same tools as other bordering districts in Blanco, Comal, Travis and eastern Hays counties,” he said. “It’s not asking for anything more than what the state has deemed necessary.”

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House Bill 2812: Removing authority

Isaac, whose House District 73 includes Comal County and western Hays County, disagrees, and filed her own bill seeking to curtail the district’s authority instead.

Perry’s bill “strips away important protections for well owners, opens the door to new fees that act like taxes and weakens financial transparency and fiscal safeguards” in the Hays Trinity water district, she said in a statement on her Facebook page.

“I filed House Bill 2812 — to prevent unnecessary government overreach and recognize when our regulators are not truly serving the people of Hays County,” Isaac said in the statement. Her office did not respond to an interview request.

If passed, her bill would make public water supply wells exempt from metering, permitting or regulation by the Hays Trinity district — removing any authority the district has to measure or limit how much is pumped.

State law defines public water supply wells as any well that “produces the majority of its water for use by a public water system.”

Isaac said water providers are already accountable to the Public Utilities Commission, “which ensures they deliver reliable service, avoid price gouging and operate responsibly.”

“We cannot allow bureaucratic overreach to jeopardize access to water,” Isaac said, writing that the district has “already denied permits to water providers who serve thousands of residents in Hays County.”

The water district said previously that Aqua Texas is operating without a permit because the overpumping fine hasn’t been resolved, but the company has continued to provide water service.

An Aqua Texas spokesperson said the company isn’t involved with either piece of legislation and declined to comment further.

Dripping Springs Water Supply Corporation is “absolutely supporting” Isaac’s legislation, board member Mark Key said.

He said the company didn’t work with Isaac’s office to draft her bill, but “relayed to her that we needed some kind of relief,” particularly from the drought restrictions from the district cutting permits by 40%. “We think their drought reduction is just arbitrary and we can’t work with that,” he said.

Key said Perry’s bill is an attempt by the district to gain more money and more power, written by a lobbyist and carried by a Lubbock senator who doesn’t represent Hays County residents. The bill would make it harder and “more Byzantine” to get permits, remove transparency and open the door for restrictions on private domestic wells, he said.

Rick Broun, general manager of Dripping Springs Water Supply Corporation, told county commissioners last month that the corporation is the district’s largest permit holder, with rights to about 1 million gallons per day from the Trinity for its 4,700 customer accounts.

At 1 million gallons per day, the proposed fee would amount to \$380 per day for the corporation, or about 8 cents per day per account.

Broun, who was previously the general manager for the groundwater district, said the proposed production fines would amount to penalties for a small number of water users while thousands of residential users go unregulated.

“Hays Trinity has roughly 100 permits for non-residential folks like us,” he said. “You’re really regulating the very minor group of well owners.”

At a meeting Tuesday, Hays County commissioners voted unanimously to approve a resolution opposing Isaac’s bill, in addition to their previous support for Perry’s bill.

Both bills have been referred to committees for consideration; Perry’s is in the Senate’s local government committee, while Isaac’s was referred to the House’s Committee on Natural Resources.

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Liz joined the Express-News in June 2023. She has been a reporter for eight years, covering housing, government, education and other topics for the Ouray County Plaindealer, Hearst Connecticut Media Group and the Beaumont Enterprise. Liz grew up in Rhode Island and graduated from Georgetown University.

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