

**Proposal: Support Senate Bill 1669, an act relating to the regulation of stormwater management by certain counties.**

**Rationale:** More than 2 million people rely on the water supplies of the Edwards and Trinity Aquifers – karst limestone aquifers that are highly susceptible to pollutants and contamination. These aquifers are recharged by surface waters that flow through the Texas Hill Country and the Edwards Aquifer Contributing Zone into the Edwards Aquifer Recharge Zone. Much of the contributing zone overlies the recharge zone of the Trinity Aquifer. The quality of water in the Edwards and Trinity aquifers is directly correlated to the quality of surface water in the Hill Country.

As population growth and development increases in this region, so too do the risks to water quality from contaminated stormwater runoff. To protect the karst aquifer groundwater supplies in Central Texas, counties overlying the Edwards Aquifer or within the Hill Country Priority Groundwater Management Area (PGMA) should be granted enhanced authority to implement stormwater management efforts.

**Issue:** The Clean Water Act (CWA) has helped significantly improve the quality of many of the United States' waterways since 1972 by regulating point source pollution, or pollution from single, identifiable sources that discharge into local waters, like industrial pipes. Today, due to this success, nonpoint source pollution is now the leading cause of water quality degradation in the U.S. The CWA only regulates nonpoint source pollutants from urban stormwater runoff, or stormwater that is collected, transported, and discharged by a Municipal Separate Storm Sewer System (MS4), but it does not require that stormwater be treated before it is discharged into waterways.

An MS4 is a means to transport and then discharge stormwater runoff into local water bodies. An MS4 is system of conveyances that is owned by a public entity; is used to collect or convey stormwater; is not a combined sewer system; and is not part of a sewage treatment plant or publicly owned treatment works. Stormwater runoff is generated when water from precipitation events flows over land and impervious surfaces and does not soak into the ground. Runoff allows stormwater to pick up pollutants – such as bacteria, nitrogen, trash, sediment, chemicals, oils, and heavy metals – that can impair bodies of water and degrade water quality, potentially rendering it harmful to aquatic life, wildlife, and humans. Most stormwater runoff is not regulated by the CWA, meaning a well-functioning MS4 represents one of the only regulatory mechanisms currently available to lessen the amount of nonpoint source pollution entering and contaminating local and downstream water sources.

MS4s in Texas are permitted by the Texas Commission on Environmental Quality (TCEQ) under the Texas Pollutant Elimination Discharge System. Phase II MS4 Permits are the permits of relevance to this proposal. Phase II MS4s serve an urban area or are designated by the TCEQ; an urban area will have a population of at least 50,000 according to one of the last three U.S. Censuses. A county is required to operate a Phase II MS4 if portions of unincorporated county are designated by the U.S. Census Bureau as an urban area.

Home rule cities may develop and implement any necessary ordinances or regulations to meet the requirements of the permit as long as they are not prohibited by state law. Counties, meanwhile, may only enact regulations expressly authorized by state law. This means Texan counties are not authorized to implement all the regulatory requirements of the permit necessary to protect water quality from stormwater runoff impacts. The exceptions to this general restriction on counties are those counties granted explicit legal authority to implement TPDES stormwater management and pollution prevention programs under Title 13 Chapter 573 of the Texas Local Government Code.

The only counties granted this exception are Bexar, Travis, and Harris counties. Bexar and Travis are granted this enhanced authority due to their location over the sensitive Edwards Aquifer in order to protect groundwater supplies. All other counties are restricted in their ability to enact all ordinances and regulations necessary to meet the MS4 permit requirements, placing water supplies at risk of contamination from polluted stormwater runoff.<sup>1</sup>

---

<sup>1</sup> Read more about MS4s in Texas and the Hill Country here: <https://aquiferalliance.org/wp-content/uploads/2024/12/MS4-Guidebook-December-2024.pdf>

Other counties in this region located over the recharge zones of the Edwards and Trinity aquifers who may soon approach the population thresholds requiring them to enter the permit should be granted this similar enhanced authority to implement appropriate stormwater management programs. These aquifers are just as susceptible to water quality degradation from polluted stormwater in these fast-growing counties as they are in Bexar and Travis counties.

**Benefits:**

- This bill is not a broad expansion of county authority; it is limited in scope and restricted only to those counties in which stormwater runoff can significantly impair groundwater quality in the Hill Country and Central Texas.
- Chapter 573 provides an optional authority to counties; counties who are granted this enhanced authority are not required to exercise it. *“Section 573.002(a) A county, district, or authority **may** take any necessary or proper action to comply with the requirements of the stormwater permitting program under the national pollutant discharge elimination system.”*
- Counties with this enhanced authority may implement their stormwater management programs to account for stormwater impacts county-wide, rather than just within the designated urban areas, which can ease planning and management efforts and better protect groundwater quality.
- The last census was in 2020. The next census to classify urban areas will not be until 2030. If granted this enhanced authority during this Legislative Session, counties who expect to have to enter the MS4 permit at that time based on population thresholds will have appropriate time to plan for developing and implementing their stormwater management program and to plan for the appropriate levels of staffing needed.
- The ability to implement appropriate levels of stormwater management is considered critical to protecting the quality and safety of groundwater supplies by cities and counties in the region. Residents of counties over the Edwards Aquifer or within the Hill Country PGMA expect that their counties will work to protect the quality of groundwater supplies.
- This legislation would likely aid Comal, Hays, Kerr, Kendall, and Williamson counties – fast-growing counties in the Hill Country that overly the recharge zones of the Edwards and/or Trinity Aquifers, which are sensitive karst limestone aquifers.