

State Legislative Update Texas Water 2011



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82nd Session Texas Legislature Key Dates

- November 8, 2010: Pre-filing of bills began
- January 11, 2011: Legislature convened
- March 11, 2011: Statewide bill filing deadline
- May 30, 2011: Last day of session
- June 19, 2011: Governor's veto deadline

Legislative Statistics

- 80th Session (2007)
 - 6,190 bills filed
 - 1,480 bills passed (24%)
- 81st Session (2009)
 - 7,419 bills filed
 - 1,459 bills passed (19.6%)
- 82nd Session (2011)
 - 7, 867 bills filed to date

Challenges and Issues for the 82nd Session

- Budget, budget, budget
- Redistricting
- State sovereignty
- Voter ID, Arizona-style immigration, sonogram bill

State Sovereignty

- HB 3188 by Larson – statute prohibiting the implementation of any federal greenhouse gas emissions regulatory program
- HCR 61 by Callegari, Creighton, Ritter, Doug Miller, Tracy King
 - Resolution opposing federal interference in state management of Texas' water resources
- HCR 78 by Price, Creighton, Ritter, Tracy King, Lavender
 - Resolution opposing any federal government attempts to diminish the jurisdiction of individual states over their intrastate water resources
- HCR 81 by Isaac - Resolution opposing federal regulation of hazardous waste, water, and clean air and the production, exploration, drilling, development, operation, transportation, and processing of oil, natural gas, and petroleum in Texas

TCEQ's Operating Budget

- Appropriations Bills (HB 1 by Pitts and SB 1 by Ogden)
 - Reflects a 33.7% decrease in overall funding for TCEQ
 - Reduction of 14.4 FTE's in water assessment and planning
 - Reduction of 61.8 FTE's in Field Operations and complaints
 - Reduction of 18.6 FTE's in Enforcement and Compliance Support
 - Reduction of 1.3 FTE's each in water resource permitting and Safe Drinking Water
 - Source: Legislative Budget Board – filed bills

State Agency Fiscal Flexibility

- SB 1584 /HB 3418 authorizes TCEQ and TWDB to reduce expenditures by
 - Consolidating reports
 - Extending the effective period of any license or permit
 - Privatizing or out-sourcing services
 - Adopting and collecting fees or charges to cover any costs
- Similar bills for other state agencies

State Water Plan Funding

- HB 3273 and HJR 138 by Ritter
 - Creates the State Water Implementation Fund for Texas (SWIFT) to assist the Texas Water Development Board in the funding of certain projects included in the state water plan
- HJR 137 by Ritter
 - Proposes constitutional amendments relating to the funding of certain water projects

Funding Options for Water Plan

- Tap fee on retail public utilities connections
- Water conservation and development fee
- Water rights fee (two options)
- Combined water rights and water conservation and development fee
- Impose state sales tax on retail sales of utility water and sewer
- Sales tax on bottled water
- Water hog fee
- Energy water use fee

Groundwater

- SB 332/HB 1730 - relating to the vested ownership interest in groundwater beneath the surface and the right to produce that groundwater (Rule of Capture)
- SB 667/HB1731 - reasserts the policy of regulating groundwater through groundwater districts
- SB 1306 – appeal of desired future conditions
- HCR 92 – resolution urging Congress to allow interstate groundwater compacts
- Many more bills on groundwater

Surface and Groundwater Transfers

- HB 2358 – repeals Section 11.085(s), Water Code which provides that “Any proposed transfer of all or a portion of a water right under this section is junior in priority to water rights granted before the time application for transfer is accepted for filing”
- SB 756 – prohibits the transport of surface water or groundwater more than 75 miles from the water's source

Land Use

- SB 18 – major overhaul of eminent domain
 - Relocation costs
 - Buy-back if land not used within 10 years
- SB 549/HB 1558 – expansion or new construction of wastewater plants in environmental justice areas; public participation, benefit agreements
- Water and Wastewater CCN bills – HB 490, HB 2888, HB 2962, HB 3668, SB 572, SB 573, SB 1097

Infrastructure

- HB 628 – alternative service delivery contracts
- SB 1048/HB 2432 – creates Partnership Advisory Commission to oversee public/private partnerships; increases flexibility and permissiveness; includes water and wastewater facilities
- SB 1654/HB 2729 – relates to local government contracts with private entities for design, development, financing, maintenance, operation, and construction of a facility or infrastructure project

Impact Fees and Others

- HB 3187 – requires political subdivisions imposing impact fees to update land use assumptions and CIP plans every 3 years instead of every 5 years
- HB 3555 – exempts higher education facilities from paying impact fees
- HB 3606 – exempts political subdivisions and other governmental entities that levy or collect property taxes from paying impact fees
- HB 2995 – A retail public utility may not charge for wastewater service provided to an urban farm

Water Consumption and Loss

- SB 181/HB 1319 – similar bills require TCEQ and TWDB to develop uniform, sector-based, water consumption metrics for municipalities and water utilities
- HB 3530/SB 660 (TWDB Sunset bills) Section 5 includes broad language on consumption metrics
- HB 3090 – requires retail public utilities over 3,300 connections to conduct water loss audits every year instead of every five years
- HB 1664 – allows unmetered water use for outdoor irrigation from lakes not used for drinking water

Potable Use of Rainwater

- HB 3372 by Tracy King and SB 1073 by Mike Jackson
- HB 3391 by Doug Miller includes other rainwater provisions including training requirements
- All three bills allow for indoor potable use of rainwater for properties connected to public drinking water supplies

Other Conservation Bills

- SB 409/SB 449/SJR 16 – property tax credits for open space preservation for water stewardship
- Water efficiency in buildings – HB 775, HB 1728, SB 457, SB 459/HB 659
- HB 2507 – creates a Class C misdemeanor if an irrigation system is installed by a non-licensed irrigator

Energy Efficiency

- SB 552 creates the Energy Efficiency Council
- requires development of a state energy efficiency plan every 6 years
- Council shall set statewide savings targets for electricity, natural gas, and electric consumption that results from the diversion, transportation, delivery, treatment, or purification of water, wastewater, and storm water to reduce peak and overall demand

Disaster Recovery

- HB 805/HB 2619 – backup power, limited to drinking water plants in or adjacent to Harris County with a population of 350,000 (change from 400,000)
- HB 2257 – use of reverse 911 by utilities and others
- HB 3705 – creates Disaster Reconstruction Office to include TCEQ and TWDB

Radioactive Waste Disposal from Drinking Water Treatment

- HB 931 – gives the Railroad Commission the sole authority to regulate and issue licenses, permits, and orders for the disposal in a bedded salt formation of naturally occurring radioactive waste resulting from the treatment of drinking water

On-Site Sewage Systems

- HB 1141 and SB 1412 allow the permitting of “cluster” commercial systems as on-site sewage systems
 - Property must be jointly owned
 - Maximum 5,000 gallons per day
 - Service area not to exceed 15 acres
- HB 240 requires TCEQ to adopt rules preventing accidental or unauthorized access to on-site sewage disposal systems
- SB 448 – on-site sewage permit fees charged by Authorized Agents may not exceed TCEQ fees

Liquid Waste Transport Manifests

- SB 617 creates a uniform, statewide manifest system for certain liquid wastes
- Applies to generation, collection, conveyance, transport, processing, storage, or disposal of municipal sewage sludge, grit trap waste, or grease trap waste

Grit Trap Waste

- HB 2551 - Land application of grit trap waste may only be considered recycling if:
 - Waste includes no hazardous substance
 - All components will have a beneficial effect on the soil
 - No components will have a negative effect
 - Application rates will not exceed agronomic application rates for chemical components.

Edwards Aquifer Discharge Permits

- SB 853 - limits issuance of a new or amended permits in the recharge zone included in the Barton Springs Edwards Aquifer Conservation District
- HB 3602 – requires that new water treatment facilities in the Edwards must remove at least 85% of total suspended solids from stormwater

Endangered Species

- HB 2760/SB 1595 – legislative intent on environmental flows and endangered species in the Edwards Aquifer, Guadalupe River Basin, San Antonio River Basin and the San Antonio Bay and Estuary System
- Authorizes Edwards Aquifer Authority, Guadalupe-Blanco River Authority, and San Antonio River Authority to impose a sales and use tax to fund a species-protection program

Illegal Dumping

- HB 451 creates the “Don't Mess with Texas Water Program” to prevent illegal dumping that affects surface waters
- Signage on major highway water crossings to report illegal dumping near surface waters
- Requires TCEQ to establish a toll-free hotline that sends calls to the appropriate law enforcement agency
- Local government participation is optional

Continuing Education – WEAT/TAWWA Legislation

- HB 965 allows TCEQ to recognize, prepare, or administer continuing education programs for license holders, including continuing education programs made available through the Internet
- Allows A and B water and wastewater operators to certify at the time the license is renewed that the license holder has complied with TCEQ's continuing education requirements

Other Bills

- HB 89 – establishes a drug donation program for certain drugs that are to be redistributed
- HB 3480 – TCEQ may not impose a standard or requirement to regulate an activity under TCEQ's jurisdiction that is more stringent than applicable federal law or regulation
- Multiple bills related to water and wastewater rates, water districts, injection wells, regulation of engineers and plumbers
- TCEQ and TWDB Sunset bills

More Information

State of Texas and WEAT websites:

www.capitol.state.tx.us

<http://www.weat.org/governmentalaffairs.htm>

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