



Legislative and Regulatory Update

North Central Texas AWWA Conference

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Overview:

- Highlights from the 83rd Session
- HB 4 / SWIFT Implementation
- Interim Activities
- Looking Ahead to the 84th Session



***Setting the Stage for a
Water Session...***

Historical Perspective – Water Funding

- 2012 State Water Plan projects that Texas needs to generate additional 9 million acft of additional water supplies by 2060.
- Cost to fund water management strategies identified in the State Water Plan: **\$53 billion**.
- SWP estimates that municipal water providers will need **\$27 billion** in state financial assistance to implement their water management strategies.

Historical Perspective – Water Funding

- Historically, political support for water funding initiatives has been a challenge.
- Reasons:
 - Budget shortfalls
 - Political climate
 - No one paying attention



2013 – The Perfect (Dust) Storm

- Texas in the midst of a long-running, possibly historic drought
- Budget surplus announced
- Key leadership at the Capitol committed to water-related initiatives





83rd Session Overview

Bills Relating to Water Loss

- HB 857 (Lucio III)
 - Requires **all** retail public utilities to perform annual water loss audit (except those providing service to 3,300 or fewer connections and who do not receive financial assistance from TWDB).
- HB 1461 (Aycocock)
 - Utility filing water loss audit must notify customers of water loss reported in the audit on next annual consumer confidence report or next bill mailed to customer.

Conservation-Related Bills

- HB 3605 (Burnam)
 - Requires TWDB, when considering application for financial assistance from retail public utility, to evaluate applicant's water conservation plan for compliance with Board's Best Management Practices and issue report to utility.
 - Requires TWDB to approve plans and specs for projects receiving financial assistance under Chapter 17.

Bills Relating to Drought

- HB 252 (Larson)
 - Requires retail public utilities to notify TCEQ when the utility is reasonably certain that they have <180 days of water supply.

Water Rights/Supply Bills

- HB 3233 (Ritter)
 - Amends several provisions within the Interbasin Transfer Statute (Tex. Water Code 11.085).
 - Removes requirement that application must include proposed effect on user rates for each class.
 - Limits issues to be referred for IBT of an existing water right.
 - Amends notice provision.
 - Provides that contractual IBT is valid for term of contract plus extensions.

Transfer of Jurisdiction from TCEQ to PUC

- HB 1600 (Cook)
 - PUC Sunset Bill.
 - Transfers water rate jurisdiction from TCEQ to Public Utility Commission.
- SB 567 (Watson)
 - Also transfers administration of the state's water rate program from TCEQ to the PUC.
 - Allows Office of Public Utility Counsel (OPUC) to intervene on behalf of residential and small commercial customers.



House Bill 4 Overview

HB 4 (Ritter) – State Water Implementation Fund

- Bill established the State Water Implementation Fund for Texas (SWIFT)
- Also established a SWIFT Advisory Committee comprised of appointees by the Governor, Lt. Governor, and Speaker of the House to submit recommendations regarding distributions of the SWIFT
- Contains special provisions relating to administration and distribution of the fund

HB 4 – Administration of Fund

- Of money disbursed from SWIFT for each 5-year planning cycle:
 - 10% must be used to support rural political subdivisions or agricultural water conservation
 - 20% must be used to support projects designed for water conservation or reuse

HB 4 – Prioritization of Projects

- Requires each Regional Water Planning Group to prioritize projects in RWPs using the following criteria:
 - Decade of project need
 - Feasibility of project, including water availability
 - Viability of project
 - Sustainability, considering life of the project
 - Cost-effectiveness; unit cost of water
- Requires RWPGs to consider both short-term and long-term needs

HB 4 – Prioritization of Projects, cont'd

- Requires TWDB to establish point system for prioritizing projects that:
 - Serve large population
 - Provide assistance to diverse urban and rural populations
 - Provide regionalized supplies; or
 - Meet a high percentage of water supply; also consider projects that
 - Impact water conservation and water loss; and
 - The priority given to the project by regional water planning group
- TWDB to adopt rules regarding use of fund and criteria.

HB 4 – Texas Water Development Board Composition

- Completely overhauled composition of TWDB – going from 6 part-time to 3 full-time board members.
- Prohibited current board members from serving in the future.
- Removed current Executive Administrator and provided for appointment of new EA.

WHERE WOULD THE MONEY COME FROM?

- HB 11 (Ritter) – Appropriated \$2 billion from Economic Stabilization Fund for deposit into SWIFT (Killed in House on point of order).
- HB 1025/ SJR 1 (Williams) – Proposed a constitutional amendment to create the SWIFT.
- **Proposition 6**: Proposal presented to voters for approval on Nov. 5, 2013 -- to appropriate \$2 billion from the Rainy Day Fund to infuse the SWIFT.

Changes at the Texas Water Development Board

- Three New Board Members:
 - Carlos Rubenstein, former TCEQ Commissioner
 - Bech Bruun, former government relations manager for the Brazos River Authority
 - Kathleen Jackson, former board member of Lower Neches Valley Authority
- New Executive Administrator: Kevin Patteson

Passage of Proposition 6

- Overwhelming voter approval – 73% of vote
- Bipartisan support and backing from business, environmental and other interests
- Infused SWIFT with real dollars so that funding can begin





Uniform Standards for Prioritization of Regional Water Plan Projects

- HB 4 Stakeholder Committee comprised of regional water planning group chairs and designees
- Uniform Standards identify five weighted criteria:

Criteria	Weight
Decade of Need	40%
Project Feasibility	10%
Project Viability	25%
Project Sustainability	15%
Project Cost Effectiveness	10%

Rulemaking by TWDB

- June 26, 2014 – TWDB approved for proposal draft rules to govern distribution of funds under SWIFT/SWIRFT
- Establish TWDB prioritization criteria for:
 - Population served
 - Projects serving diverse urban/rural population
 - Projects providing regionalization
 - Meeting a high percentage of water supply needs

Rulemaking by TWDB, Cont'd

- Other prioritization criteria:
 - Other funding contributions
 - Ability to repay
 - Addressing an emergency need
 - Project readiness to proceed
 - *Demonstrated water conservation success*
 - Regional priority ranking
- Also prescribe use of funds by TWDB

Rulemaking by TWDB, cont'd

- Draft Rules do not outline a protocol for initial earmarking of conservation and reuse projects.
- Instead, provide that after release of funds, TWDB quantify what portion of project funds qualify as conservation and reuse funding.
- TWDB accepted public comments on Draft Rules until September 1, 2014.
- Rule to be finalized by December 1, 2014.

Water Loss Threshold Rules

- Implements HB 3605
- Impacts a utility's opportunity for funding from SWIFT
- Establishes acceptable water loss thresholds for different classes of utilities expressed in *real* and *apparent* loss
- Rule is currently pending adoption by TWDB



The Interim

House Interim Charges

- House Environmental Regulations Committee:
 - Study of environmental permitting processes at TCEQ, including contested-case hearing process at SOAH and economic impacts of same.
- House Natural Resources
 - Study of availability, management, and development of groundwater (especially brackish); look to improve consistency and certainty of GCD regulation
 - Examine strategies to enhance use of aquifer storage and recovery projects

Senate Interim Charges

- Natural Resources:
 - Study of current accountability of river authorities to the legislature and customers served by the authorities.
 - Study of economic impact of drought. Consideration of whether local lakeside economies should be considered in state and regional planning process.
 - Examination of impact on Texas' economy of recent expansion of oil and gas production in Northern Mexico.

Joint Interim Committee to Study Water Desalination

- Co-chaired by Sen. Craig Estes and Rep. Todd Hunter
- Very active during interim -- held hearings on both brackish groundwater and seawater desalination.
- Examining economic and technical feasibility of desalination options.

Elections

- Senate:
 - Dewhurst loses in primary – new leadership in Senate.
 - 15 of 31 seats in Senate up in 2014.
 - Possible change in Natural Resources Chair
- House:
 - 12 incumbents not running for reelection
 - Ritter retirement = new Natural Resources Chair

Statewide Elections

- 2014 statewide elections feature more open seats than any Texas election since 1990.
- NEW:
 - Governor
 - Lt. Governor
 - Attorney General
 - Comptroller
 - Land Commissioner
 - Ag Commissioner





***Looking Ahead toward the 84th
Session...***

Dates

- November 10, 2014 – Pre-filing of legislation begins
- January 13, 2015 – 84th Legislature convenes at noon
- March 31, 2015 – Bill filing deadline
- June 1, 2015 – Last day of 84th Regular Session

Issues to Watch

- Regulatory streamlining and permitting efficiency at TCEQ and other state agencies
- Focus on groundwater issues, including:
 - GCD regulation
 - Permitting consistency and certainty
 - Desalination
 - Groundwater use for oil and gas
- Continued focus on drought-related initiatives

Questions???

