




**Is the Legislature Concerned about Groundwater? Brackish What?**

**13<sup>th</sup> Annual Bell County Water Symposium**  
**November 14, 2013 - Belton**

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**Legislative Statistics**

- 5868 House Bills and Senate Bills filed during Regular Session of 83<sup>rd</sup> Texas Legislature.
- 1437 bills passed / 26 vetoed.
- 2011 - 5796 House and Senate Bills filed and 1379 bills passed with 24 vetoed.
- 2009 - 7419 HBs and SBs filed in 2009 and 1459 passed with 35 vetoed.

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### Recent Texas Water Legislation

- Senate Bill 1 – 1997
- Senate Bill 2 – 2001
- Senate Bill 3 – 2007
- House Bill 4, HB 1025, and SJR 1 – 2013

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### State Water Implementation Fund for Texas (SWIFT) Legislative Package

- HB 4 - provides the framework and administration of the SWIFT and State Water Implementation Revenue Fund (SWIRFT) and the re-organization of the Texas Water Development Board (TWDB).
- Senate Joint Resolution (SJR)1 – proposes an amendment to Texas Constitution to create the SWIFT and SWIRFT to assist in the financing of water projects.
- HB 1025 - authorizes a one-time \$2 billion placement of funds from the Economic Stabilization Fund (Rainy Day Fund) into the SWIFT if the voters

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## **Prop 6 – Approval of SWIFT by Texas Voters on November 5**

- Voters of Texas approved Proposition 6 to amend the Texas Constitution to create the SWIFT.
- Proposition 6 approved by 73.37% of the voters.
- 836,424 voters voted in favor of Prop. 6
- 303,547 voters voted against Prop. 6

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## **HB 4 (Ritter/Fraser) – SWIFT, SWIRFT, and TWDB Re-Organization**

- Provides for framework and administration of SWIFT and SWIRFT.
- Re-organized several aspects of TWDB, including the leadership structure.
- TWDB will now have 3 full-time board members instead of 6 part-time board members.
- An advisory committee for the SWIFT is established which is comprised of the Comptroller and members appointed by Speaker and Lt. Governor. The advisory committee must make recommendations to the TWDB regarding the use of money in the SWIFT.
- Requires prioritization of projects by RWPGs and TWDB.
- TWDB must create a point system for prioritization of projects.

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## **HB 4 (Ritter/Fraser) – SWIFT, SWIRFT, and TWDB Re-Organization**

- SWIFT and SWIRFT were created to leverage \$2 billion to finance the nearly \$30 billion worth of water supply projects identified in the State Water Plan.
- The funds are revolving and self-supporting in nature.
- The funds are to be used to subsidize interest rates, to allow for longer and incremental repayment terms, and to enable entities to have deferral periods on the repayment of funds needed for water projects.

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## **HB 4 (Ritter/Fraser) – Timelines for Action**

- Sept. 1 = Board members appointed by Governor Perry begin terms.
- Nov. 5 = Voters approved Proposition 6
- ASAP after Nov. 5 = Advisory Committee members appt.
- Dec. 1 = RWPG stakeholder committee submits project prioritization standards to TWDB and TWDB must approve.
- Sept. 1, 2014 = RWPGs submit final prioritization of projects from 2011 RWPGs.
- March 1, 2015 = Deadline for TWDB adoption of rules.

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## **TWDB Board Members Appointed by Governor Perry**

- On August 16, 2013, Governor Perry appointed 3 board members to the TWDB pursuant to HB 4.
- Carlos Rubinstein, Bech Brunn, and Mary Ann Williamson will serve full-time effective September 1, 2013.
- Rubinstein will serve as chair of the board for a term to expire at the pleasure of the governor.

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## **New TWDB Board Member - Carlos Rubinstein**

- Commissioner at TCEQ which he has held since August 2009
- Member of numerous water-oriented committees and councils
- Former Rio Grande Watermaster
- Former City Manager for the City of Brownsville
- Term as board member to expire February 1, 2017

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### **New TWDB Board Member – Bech Bruun**

- Currently serving as Director of Governmental Appointments for the Office of Governor
- Former Government and Customer Relations Manager for Brazos River Authority
- Former Chief of Staff for State Rep. Todd Hunter
- Term as board member to expire February 1, 2015

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### **New TWDB Board Member – Mary Ann Williamson**

- Owner of MKS Natural Gas Company
- Board Member and Current Chair of Texas Lottery Commission
- Member of Texas Society of Certified Public Accountants
- Term as board member to expire February 1, 2019

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## Texas Groundwater Management / Law

- Exciting time to be involved with water issues in Texas
- Water management and Texas law governing water is evolving and organic
- 1997 – 38 GCDs in existence
- 2013 – 99 GCDs with 4 GCDs awaiting confirmation elections

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## Texas Groundwater Management / Law

- Increased level of knowledge about groundwater resources and management but much more is needed
  - Ex. Middle Trinity GCD (Erath, Comanche, Bosque, and Coryell Counties)
- Science, science, science

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## **TWDB – Brackish Groundwater Resources**

- BRACS – Brackish Resources Aquifer Characterization System
  - Created with funding from Legislature in 2009
  - Designed to map and characterize the brackish aquifers of Texas in greater detail.
- Brackish Groundwater Manual for Texas Regional Water Planning Groups – November 2003. Prepared by LBG-Guyton Associates

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## **Groundwater Legislation – Filed during 83<sup>rd</sup> Texas Legislature**

- Brackish groundwater / desalination (multiple bills)
- Aquifer Storage and Recovery (HB 3013)
- Long-Term Permitting by GCDs (HB 1796)
- GCD Permitting Exemptions – Water involved in Oil and Gas activities (SB 873)
- TDLR Regulation of Water Well Drillers (SB 1387)

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## **Groundwater Legislation – Desired Future Conditions**

- Senate Bill 1282 (Sen. Duncan / Rep. Price)
  - Moves the deadline for establishment of DFCs from 2015 to 2016
  - Helps align DFC adoption process with regional planning process
    - Modeled Available Groundwater numbers have to be in the Regional Water Plans and State Water Plan now.

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## **Groundwater Legislation – Per Diems for GCD Board Members**

- House Bill 1563 (Rep. King / Sen. Hegar)
  - Amends Chapter 36 of Water Code to increase GCD director per diem/fee of office from \$150 to \$250
    - \$9,000 annual cap does not change though

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## **Groundwater Management Area (GMA) Process for GCDs**

- Based on legislative changes made in 2011, the DFC Process was substantially revised.
- GCDs in each of the 16 GMAs must consider a list of 9 factors and propose DFCs for the aquifers within the GMA
- A 90 day public comment period begins after DFCs are provided to the GCDs

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## **Groundwater Management Area (GMA) Process for GCDs**

- GCDs hold public hearings during 90 day comment period and prepare summary reports
- GMA meets to consider summary reports and to adopt DFCs
- GMA prepares an explanatory report and submits DFC info to TWDB
- GMA provides DFC info to GCDs and GCDs adopt DFCs ASAP after receiving info

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**HB 2578 (Larson) / HB 2334 (Callegari)**  
**SB 1760 (Uresti) / SB 1284 (Schwertner)**

- Desalination / Brackish Groundwater legislation
- Amended Chapters 11 and 36 of the Water Code.
- Defined "brackish water" and "marine water"
- "Brackish water" means water that contains a total dissolved solids concentration of more than 1,000 milligrams per liter.
- "Marine water" means water that contains TDS concentration of more than 10,000 milligrams per liter and is derived from Gulf of Mexico or adjacent bay, estuary, or arm of Gulf.

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**HB 2578 (Larson) / HB 2334 (Callegari)**  
**SB 1760 (Uresti) / SB 1284 (Schwertner)**

- Attempted to streamline regulatory process for desalination projects.
- Desalination of marine seawater projects would have been exempt from TCEQ permitting regulations.
- Desalination of brackish groundwater projects would need to be located in production zones designated by the TWDB.

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## **Texas Groundwater Management / Law**

- Brackish groundwater / water quality
- Estimated that Texas has 2.7 billion acre-feet of brackish groundwater according to 2003 LBG-Guyton and Assoc. study.

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## **2012 State Water Plan – Brackish Groundwater Desalination Projects**

- 2012 State Water Plan recommended groundwater desalination in five regional water planning areas of Texas – Regions E, F, L, M, and O
- The volume of water that would result from brackish groundwater desalination would increase from 56,553 acre-feet in 2010 to approximately 181,568 acre-feet by 2060.

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### **GCD Management of Brackish Groundwater**

- No statutory definition of "brackish groundwater" in Texas law.
- Some want to define as groundwater that contains a total dissolved solids (TDS) concentration of more than 1,000 milligrams per liter.
- Some want to define as groundwater that contains a total TDS concentration of more than 10,000 milligrams per liter.

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### **GCD Management of Brackish Groundwater**

- Production of brackish groundwater is being permitted by GCDs today
- No differentiation in most GCDs' rules between potable groundwater and brackish groundwater
- Vast majority of Desired Future Conditions (DFCs) and Modeled Available Groundwater (MAG) don't differentiate between potable groundwater and brackish groundwater

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### **GCD Management of Brackish Groundwater**

- Do GCDs want to encourage the production and use of brackish groundwater?
- Yes. GCDs understand that growing communities and businesses need more water supplies but not at the expense of the groundwater resources within GCDs' boundaries and, particularly, potable groundwater resources

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### **GCD Management of Brackish Groundwater**

- Can GCDs encourage the production brackish groundwater under existing Texas law and within their existing regulatory frameworks?
- Yes. GCDs can authorize the production of brackish groundwater in greater amounts as part of well permitting process.
- Chapter 36 enables GCDs to adopt different DFCs related to brackish groundwater production and to establish management zones from which brackish groundwater can be produced.

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### Section 36.108(d-1) – Different DFCs

- The districts may establish different desired future conditions for:
  - each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or
  - each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.

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### Section 36.116(d) – Management Zones

- For better management of the groundwater resources located in a district or if a district determines that conditions in or use of an aquifer differ substantially from one geographic area of the district to another, the district may adopt different rules for:
  - (1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the district;  
or
  - (2) each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the district.

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### **Barton Springs/Edwards Aquifer Conservation District – Saline Edwards Aquifer**

- BSEACD has designated a management zone known as the Saline Edwards Management Zone
- BSEACD has worked with GMA 10 to determine a DFC for Saline Edwards MZ
- BSEACD rules treat non-exempt wells located within SEMZ differently. Certain curtailments of production of wells do not apply.

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### **Legislative Interim / 84<sup>th</sup> Legislature**

- Stakeholder groups working on brackish groundwater issues
  - Texas Water Conservation Association
  - Texas Alliance of Groundwater Districts
  - Texas Desalination Association
- Interim Committee Studies with recommendations for 84<sup>th</sup> Texas Legislature

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## **Groundwater Issues to be studied during Legislative Interim Period**

- Brackish groundwater / desalination
- Aquifer Storage and Recovery
- Long-Term Permitting by GCDs
- GCD Permitting Exemptions – Water involved in Oil and Gas activities
- TDLR Regulation of Water Well Drillers

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## Questions?

- Any questions?
- Thank you.

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