



LEGISLATIVE UPDATE

**Texas Municipal Utilities Association
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Overview of Current 84th Regular Session

- Tax Relief – Franchise / Sales / Property Taxes
- Open Carry / Campus Carry
- Border Security
- Public School Finance
- Transportation
- Government Transparency
- New faces;
 - **Senate** – 9 Freshmen / 5 Sophomores
 - **House** – 25 Freshmen / 19 Sophomores
- New leadership – Governor, Lt. Governor, & Committee Chairs

Population Growth = Real Estate Development

- Growth results in increased pressure and emphasis on:
 - Natural Resources
 - Infrastructure
 - Provision of Utility Services

83rd Regular Session Recap

- Senate Bill 567 (Nichols/Watson) – moved the administration of the CCN and water and sewer rates programs from the TCEQ to the Public Utility Commission (PUC)
- HB 1600 (Cook) – PUC Sunset Legislation
- Initiated a 2 phase R-M process over the interim.
- That process resulted in SB 1148 by Watson, the piece of legislation with the biggest impact to Chapter 13 of the Water Code

Senate Bill 1148 (Watson) – Certain Functions of the PUC

- This bill amends TWC § 13.043 by adding subsection (b-1) providing that a municipally owned utility shall;
 - (1) disclose to any person, on request, the number of ratepayers who reside outside the corporate limits of the municipality; and
 - (2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.
- Bill adds a new Subchapter to TWC Chapter 13, Subchapter K-1 “Emergency Orders,” containing provisions for;
 - PUC issuance of an emergency order;
 - Applications for emergency orders;
 - Notice of issuance of emergency orders;
 - Hearings to affirm, modify, or set aside an emergency order; and
 - Terms of emergency orders
- Bill voted favorably from Senate and House committee, sent to L&C 5/11

House Bill 30 (Larson) – Brackish Groundwater Production Zones

- This bill addresses the development and production of brackish groundwater resources in Texas via amendments to Chapter 16, TWC.
- The bill imposes requirements on Regional Water Planning Groups and the TWDB to investigate and report on opportunities for the development of brackish groundwater (including desalination projects).
- In its required report to the Governor, the TWDB will designate “brackish groundwater production zones” in areas of the state with moderate to high availability and productivity of brackish groundwater that can be used to reduce the use of fresh groundwater.
- Bill was voted favorably from the House and received by the Senate on 5/11

House Bill 200 (Keffer) – DFC Appeals

- As a part of the statewide water planning process, Groundwater Management Areas (GMAs) are large geographic groups comprised of representatives of the local GCDs.
- GMAs meet to set “desired future conditions” – what those representatives would like their local aquifers to look like in 50 years → Used as basis for permitting decisions.
- This bill sets a process to challenge a GCDs decision in setting its DFCs for relevant aquifers through contested case hearings and substantial evidence appeals to a district court with jurisdiction over any part of the territory of the GCD that issued the final order on its DFC.
- Voted favorably from House and Senate Committee, on intent 5/14

House Bill 655 (Larson) – Aquifer Storage and Recovery (ASR)

- This bill is a comprehensive reform of state laws regarding Aquifer Storage and Recovery (ASR) projects. Adds Subchapter G to Ch. 27 of Water Code.
- The bill generally exempts ASR projects from Water Code Ch. 11 permitting requirements..
- Subchapter G authorizes ASR projects to secure a Class V UIC authorization; considerations for permit →
 - extent to which water injected can be recovered,
 - the effects of the project on existing wells in the area, and
 - the potential for polluting groundwater.
- Voted favorably from the House and Senate Committee, on intent calendar 5/14

House Bill 928 (Guillen) – Drought Contingency Plans

- This bill requires the Water Conservation Advisory Council to monitor and develop strategies for responding to drought, monitor technologies for responding to drought, and recommend methodologies for conducting drought contingency plan evaluations.
- The bill allows (rather than requires) wholesale or retail public water suppliers or irrigation districts to review and update their drought contingency plan, as needed.
- Any changes in the implementation of drought contingency plans must still be reported to TCEQ within 5 days.
- Bill was voted favorably from the House and referred to Senate committee on 5/11

House Bill 930 (Miller) – Water Well Driller and Pump Installer Apprenticeship Program

- This bill amends the Occupations Code to reestablish, by TDLR rule, the water well driller and pump installer apprenticeship programs.
- Also slightly alters the required submissions that accompany a license application, and allows well logs to be submitted electronically.
- Bill was voted favorably from the House and referred to Senate Committee on 5/6

House Bill 949 (Lucio) – Water Loss Mitigation

- Bill provides a small amendment to 16.0121(g) of the Water Code
- Under current law, a retail public utility that receives financial assistance from TWDB must use a portion of the financial assistance to mitigate the utility's system water loss if the water loss meets or exceeds the threshold established by TWDB rule.
- This bill would allow TWDB (at the request of a retail public utility) to waive the requirements of this section if TWDB finds that the utility is satisfactorily addressing the utility's system water loss.
- Voted favorably from House and Senate Committee, on L&C 5/15

House Bill 1290 (Keffer) – Sunset Review of River Authorities

- This bill subjects river authorities to a limited review by the Sunset Advisory Commission, but without the option that they be abolished.
- The Sunset Advisory Commission would assess each river authority's governance, management, operating structure, and compliance with legislative requirements.
- The costs of the review would be paid for by the applicable river authority.
- Voted favorably from the House and received by the Senate on 4/27

House Bill 2179 (Lucio) – GCD Permitting Decisions and Contested Cases

- This bill amends Water Code Ch. 36 to:
 - authorize the Board of a GCD to act on uncontested applications at public meetings;
 - address contested applications through public notice and contested case hearings before Administrative Law Judges (ALJs) at SOAH;
 - establish apportioning protocol for the costs by the applicant and other parties for SOAH's expenses; and,
 - specify provisions related to a GCD's final decision following a contested case hearing.
- Bill was reported favorably from the House and from Senate Committee on 5/11

House Bill 2230 (Larson) – Injection of Brine Treatment Residuals

- This bill creates a new subsection in Water Code Chapter 27, Section 27.026, entitled “Dual Authorization of Injection Wells to Inject Nonhazardous Brine from Desalination Operations or Nonhazardous Drinking Water Treatment Residuals.”
- Bill creates a program allowing Class II injection wells, permitted by RRC under Water Code Chapter 27 (Subchapter C), to be used for the disposal of nonhazardous brine from desalination operations or nonhazardous drinking water treatment residuals.
- To be permitted by individual or general permit, or by rule, by TCEQ. The bill also calls for both RRC and TCEQ to enter into a Memorandum of Understanding to effectuate the provisions of Section 27.026.
- Voted favorably from the House, to be heard in Senate committee on 5/14

House Bill 2284 (Walle) – CCN Revocation

- This bill creates a new section in Chapter 13, Section § 13.2541 entitled “Revocation of Certificate for Certain Major Violators.”
- Bill is narrowly tailored to specifically apply to one IOU in Harris County who has repeatedly violated PUC regs.
- Customers unable to bathe and forced to boil water for consumption.
- PUC has authority to revoke this IOU’s CCN, install a “temporary manager” to manage the utility until the CCN is transferred, and ultimately auction all the IOU’s assets
- Voted favorably from House, currently in Senate committee

House Bill 2788 (Springer) – Correctional Facility Compliance

- The bill amends Chapter 13 of the TWC by creating § 13.1461 – “Correctional Facility Compliance with Conservation Measures.”
- Normally apply to private citizens/business → New section allows a retail public utility supplying water or sewer service to a correctional facility to require the correctional facility to comply with the utility’s conservation measures.
- Correctional facilities are major users of water for many municipalities, employing conservation measures will have a major impact.
- Status: Voted Favorably out of House Committee, Voted Favorably from Senate Committee on 5/12

House Bill 2852 (Nevárez) – Municipal Fees Charged to Public School Districts

- This bill amends Water Code Chapter 13 by adding two new sections.
- The 1st new section, 13.0441, provides that a public school district may appeal the rates charged to the district by a municipality by filing a petition with the PUC.
- The 2nd new section, 13.088, provides that a municipally owned utility providing retail water or sewer service to a public school district may not charge the district a **fee** based on the number of district students or employees (on top of the rates the utility charges the district for the service).
- Status: Voted Favorably Out of Committee, & Placed on General State Calendar on 5/12

House Bill 2852 (Nevárez) – Municipal Fees Charged to Public School Districts

- These new sections only apply to a school district that was charged a fee based on number of students/employees after September 1, 2009.
- Upon petition from a school district, the PUC shall evaluate the fee to determine if it complies with new section 13.088. If it does not, the PUC;
 - (1) shall fix or eliminate any fee to be charged;
 - (2) shall establish the original effective date of the fee;
 - (3) shall, by order, require the utility to refund the money collected; and
 - (4) may allow the district to recovery from the utility any reasonable expenses incurred by the district in filing its petition
- Lastly, this section expires, and a public school district may not submit a petition to the PUC, after September 1, 2020.

House Bill 3298 (Larson) – “Water Grid”

- This bill is the embodiment of legislative findings relating to a study by TWDB regarding the development of a market and conveyance network for water in the state of Texas.
- Purpose → evaluate improvements to the transfer of water and to establish a “**water grid**” involving an integrated network of pipelines, pumping stations, reservoirs, and other networks of conveyance between river basins, water sources, and areas of water use in the state.
- Related to that purpose, the bill lists a multitude of specific considerations required of TWDB when conducting the study.
- Bill voted favorably from the House, referred to Senate committee 5/11

House Bill 3356 (Lucio) – GCD Regulation Based on Acreage

- This bill amends Chapter 36.116(c) relating to regulation of the production of groundwater based on tract size/acreage (**correlative**).
- Specifically, the bill mandates that a GCD shall consider the service needs/service area of a retail public utility when regulating groundwater production.
- Additionally, the bill states that a GCD may determine whether it is appropriate to base permitted production amount on a retail public utility's service needs or service area under this subsection.
- Bill was voted favorably from the House and referred to Senate committee on 5/13.

House Bill 4097 (Hunter) – Desalination Projects

- This bill amends the Utilities Code and the Water Code to require TCEQ to adopt rules allowing for industrial use of desalinated seawater.
- TCEQ would be authorized to issue permits for desalination of seawater for use for industrial purposes, and also authorizes underground injection of desalination residuals
- Requires TCEQ and ERCOT to participate in studies analyzing:
 - (1) the impacts on seawater transmission and distribution infrastructure; and
 - (2) the potential economic benefits including the impact on demand response opportunities in the ERCOT market.
- Bill was voted favorably from the House and received by the Senate 5/12

Senate Bill 789 (Eltime) – Provision of Service Without a CCN

- This is a local bill for Senator Eltime and Representative Schaefer (HB 1279 is companion). Narrowly tailored to apply only to Smith County.
- Allows a municipality to provide sewer service to an area entirely within the municipality's boundaries without first having to obtain from the PUC a CCN, regardless of whether the area to be served is certificated to another retail public utility.
- Voted favorably from both Senate and House Committees

Senate Bill 854 (Zaffirini) – Permit Renewals with GCDS

- This bill adds a new subsection to Chapter 36 of the Water Code.
- New section 36.1145 → A GCD **must** renew a permit *without a hearing* provided that the permit holder is not requesting a change to the permit.
- A GCD would not be required to renew a permit if the applicant is delinquent in paying any fees, if the applicant is subject to an unsettled or pending enforcement action initiated by the GCD, or if the applicant has not complied with any final order issued in relation to a violation of GCD rules.
- Reported favorably from Senate and House Committee (HB 1248 by Lucio is companion)

Senate Bill 912 (Elife) – Sanitary Sewer Overflows

- Bill amends Water Code Ch. 26 to exempt certain **accidental spills** from wastewater collection and treatment facilities from TCEQ reporting requirements if;
 - the spills occur at facilities owned by local governments,
 - are 1000 gallons or less in volume,
 - are not associated with larger volume spills, and
 - are controlled such that they don't enter state streams, adversely impact public or private water supply sources, and are not a danger to the public or environment.
- Monthly reporting of such spills to TCEQ is required, and TCEQ is required to adopt rules to standardize the method for calculating the volume of spills.
- In order to secure the exemption, the spill must not otherwise be subject to local regulatory control and reporting requirements.
- Voted favorably from Senate and House Committee, sent to Calendars 5/13

Questions?

- Any questions?
- Thank you.