



WRAP-UP OF THE 84th TEXAS LEGISLATIVE SESSION

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Presented by:

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Overview of 84th Regular Session

- Tax Relief – Property Taxes – Proposition 1
- Open Carry / Campus Carry
- Border Security – Change in direction with Paris attacks
- Transportation – Proposition 7
- Government Transparency – considerations for clients
- New faces;
 - **Senate** – 9 Freshmen / 5 Sophomores
 - **House** – 25 Freshmen / 19 Sophomores
- New leadership – Governor, Lt. Governor, & Committee Chairs

House Bill 23 (Davis) – Local Government Conflict Disclosure Requirements

- Bill expands the definition of “local government entity” to include a water district created under Chapter 49 of the Water Code.
- Reduces the trigger amount under which a local government officer must file a conflicts disclosure statement from \$250 to **\$100**.
- Eliminates several of the “guest exceptions” of the disclosure requirements:
 - No longer can count expenses on lodging, transportation, or entertainment accepted as a guest as exceptions to the reporting requirements.
 - Dining is the only “as a guest” exception that remains – e.g. you can still be taken to dinner as a guest without having the amount spent at dinner added towards the \$100 conflicts disclosure threshold.

House Bill 910 (Phillips) – Open Carry

- Bill amends Texas statute to create a single “license to carry a handgun” – can be carried either concealed or openly.
- The rules related to where and when a license holder may openly carry are essentially identical to where and when a concealed handgun license holder can carry under current law.
- Specifically-listed public property where licensed open carry is statutorily forbidden is identical to provisions for same related to concealed carry, (e.g. on the property of an “institution of higher education,” on the premises of a polling place on the day of an election or while early voting is in progress, or on the premises of any government court or offices utilized by the court).
- If the license holder is given written notice pursuant to Penal Code Section 30.06 and/or 30.07 that carrying is prohibited, cannot carry into any meeting of a governmental entity that is subject to the Open Meetings Act.
- The language for the required sign to provide notice that concealed carrying is not allowed has been changed, which means any old “30.06” signs must be replaced, and new “30.07” signs related to open carry must be added, if desired.

House Bill 1295 (Capriglione) – New Conflict Disclosure Requirements

- This bill provides new requirements for contracts between a “business entity” and a governmental entity. The contract must either: (1) **require an action or vote** by the governing body of the governmental entity OR (2) have a **value of at least \$1 million**.
- If the contract qualifies, the business entity must submit a “disclosure of interested parties” to the governmental entity before entering into the contract.
- The disclosure would need to contain a list of each “interested party” the contracting person is aware of, and also a signature acknowledging the disclosure is under oath.
 - “Interested party” is defined as “a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.” TEC has proposed rules to further define this term in their regs.

House Bill 1378 (Flynn) – Annual Financial Reporting

- This bill Requires political subdivisions to prepare an annual financial report that includes financial information for each fund and debt obligation.
 - Debt obligation information (i.e. principal and interest on outstanding debt amounts), credit rating, and any other information relevant or necessary to explain the values of any of the financial information provided.
- The political subdivision would be required to post the financial report on their internet website until the next report is prepared.
 - Alternatively, a political subdivision may provide the financial and debt obligation information to the comptroller, and the comptroller would then be required to post the information on the comptroller's website.

House Bill 1378 (Flynn) – Annual Financial Reporting

- Notwithstanding any other provision of the bill, a district, as defined by Section 49.001, Water Code, satisfies the requirements of this section if the district:
 - (1) Complies with the requirements of Subchapter G, Chapter 49, Water Code, regarding audit reports, affidavits of financial dormancy, and annual financial reports; and
 - (2) Submits the financial documents described by Subchapter G, Chapter 49, Water Code, to the comptroller.

House Bill 3357 (Lucio) – Posting Notice of Meetings

- This bill amends the Government Code to allow **notice** of each meeting held by a governing body of a water district, or other district or political subdivision, to be provided to the county clerk or posted on the district's or subdivision's **internet website**.

Environmental Bills

House Bill 30 (Larson) – Brackish Groundwater Production Zones

- Addresses the development and production of brackish groundwater resources in Texas.
- Imposes requirements on Regional Water Planning Groups (RWPGs) and the Texas Water Development Board (TWDB) to investigate and report on “opportunities for the development of brackish groundwater (including desalination projects).”
- Requires TWDB to identify and designate local or regional **brackish groundwater production zones** (using specific criteria) in its biennial report to the legislature.
- Requires TWDB to include in this report (due December 1, 2016) an identification and designation of brackish groundwater production zones for: (1) the portion of the Carrizo-Wilcox located between the Colorado and Rio Grande Rivers; (2) the Gulf Coast and sediments bordering it; (3) the Blaine; and (4) the Rustler aquifers.
- Ongoing stakeholder meetings at TWDB – one in October. Fair amount of money available for consulting/private contracting to assist TWDB.

House Bill 40 (Darby) – Jurisdiction over Oil & Gas Operations

- Denton fracking ban override
- Provides for exclusive jurisdiction over “oil and gas operations” to the RRC
- The act will “preempt the regulation of oil and gas operations by municipalities and other political subdivisions, which is impliedly preempted by the statutes already in effect.
- Specifically, a political subdivision may no “enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries” of the political subdivision.

House Bill 200 (Keffer) – DFC Appeals

- Adds new provisions to Chapter 36 of the Texas Water Code for appealing the desired future conditions (DFCs) of aquifers adopted by GCDs.
- An affected person may file a petition with a GCD for a contested case hearing (CCH) on the reasonableness of an adopted DFC. The GCD will then contract with the State Office of Administrative Hearings (SOAH) to conduct a hearing on the petition and issue findings of fact and conclusions of law in its proposal for decision (PFD) to the GCD.
- GCD must also forward a copy of the petition to TWDB, who will conduct an administrative review of the petition and a technical analysis of the DFCs.
- GCD will then issue a final order in light of SOAH's PFD.

House Bill 200 (Keffer) – DFC Appeals

- Authorizes a judicial appeal of the GCD's final order on the adopted DFCs to be filed in a district court with jurisdiction over any part of the GCD's territory.
- In a judicial appeal of DFCs, the court is required to award attorney's fees and costs for those issues in which the GCD prevails.
- If the reviewing court in a judicial appeal determines that an adopted DFC is unreasonable, the GCDs in the Groundwater Management Area must reconvene to revise the DFC within 60 days following the court's order. This bill only applies to DFCs adopted on or after September 1, 2015.

House Bill 280 (Simmons) – Required Information on SWIFT

- Amends TWC § 15.440(b) to require additional information regarding the state water implementation fund be posted online by the TWDB, including:
 - An accounting of the number of bonds issued and the terms of the bonds, a summary of the terms of the bond enhancement agreement, and the status of repayment of loans and an assessment of the risk of default for all projects within each regional water planning area;
 - A description of the investment portfolio of the fund;
 - The expenses incurred in investing money in the fund;
 - The rate of return on the investment of said money;
 - A description of the point system for prioritizing projects and the number of points awarded by the board for each project;
 - Any nonconfidential information submitted to the board as part of an application for financial assistance; and
 - The administrative and operating expenses incurred by the board in developing the state water plan and providing financial assistance for projects in the plan.

House Bill 281 (Simmons) – Landfill Permitting Input

- This bill imposes a mandate on TCEQ for an application for the issuance, amendment, or renewal of a permit seeking to expand the area or capacity of a municipally-owned Type I municipal solid waste landfill that;
 - Was permitted by the state before 1980;
 - Is located wholly inside the boundaries of a municipality, and;
 - is owned by a municipality other than the municipality where it is located
- TCEQ **cannot approve** the application UNLESS the governing body of the municipality involved gives prior approval, by resolution or order, of such permit issuance, amendment, or renewal.
- The bill also allows any legislators representing the legislative district containing the landfill at issue an opportunity to comment on the application
- TCEQ required to consider those legislator comments in evaluating the application.

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

- Establishes a comprehensive framework for the permitting of Aquifer Storage and Recovery projects by the TCEQ.
- Basic Framework:
 - Injection Well Permit from TCEQ (Water Code Ch. 27) IS required.
 - Authorization from a Groundwater Conservation District under Water Code Ch. 36 IS NOT required unless the amount of water recovered exceeds the amount that TCEQ authorizes to be recovered.

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

- Monthly reports on water injected and water recovered must be sent to TCEQ (and to any GCD in which wells are located).
- Annual water quality sampling of the aquifer and reports on sampling must be sent to TCEQ (and to any GCD in which wells are located).
- New provisions in Water Code Ch. 27 establishing criteria TCEQ must consider in granting authorization for an ASR injection well - including water quality criteria, feasibility of recovery of injected water, impact on native water and other wells. (Water Code §27.153).

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

- This bill amends the Texas Occupations Code to reestablish the water well driller and pump installer apprenticeship programs with the Texas Department of Licensing and Regulation (TDLR).
- Allows well logs to be submitted electronically to TDLR, TCEQ, and the owner of the well.
- TDLR has proposed rules to effectuate the provision of this bill, and they will be adopted by the December 1, 2015 deadline established in the bill.

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.

House Bill 1232 (Lucio) – TWDB Aquifer Mapping

- The bill requires TWDB to conduct a study on the “hydrology and geology of the confined and unconfined aquifers” in Texas.
- TWDB must produce a map showing the geographic area and water quality of major/minor aquifers. TWDB must report results by December 31, 2016.
- Stakeholder meetings ongoing, one in October and one in the works after Jan 1

House Bill 2031 (Lucio) – Marine Seawater Desalination

- The bill creates Chapter 18 of the Texas Water Code – “Marine Seawater Desalination Projects.”
- Chapter provides for expedited and **streamlined permitting** and processes for large-scale marine seawater desalination projects and integrated marine seawater desalination and power projects.

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

- Clarifies and establish differences between the different hearings that may occur before a GCD such as public, preliminary, evidentiary, or final hearings.
- Section to Chapter 36 of the Water Code is added to address requests for contested case hearings, and specifically mandating that the board of directors of a GCD hold a "preliminary" hearing on a request for a contested case hearing to determine if the requestor has the requisite **standing** and **justiciable interest** to file for a contested case hearing on the permit application.
- Provision is added in Section 36.406(d) that would allow the presiding officer of a hearing to determine how costs related to a contested case hearing will be apportioned between the parties involved.
- The bill adds language that for a GCD to modify or vacate and order, or to alter a finding of fact or conclusion of law, criteria is established for a GCD board to vacate, modify, alter, etc. an order, finding of fact, or conclusion of law issued by an ALJ.

House Bill 2230 (Larson) – Dual Authorization for Injection of 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.

House Bill 2763 (Thompson) – TCEQ Recycling Study

- This bill requires TCEQ to convene an advisory committee to conduct a study in order to;
 - quantify the amount of materials currently being recycled;
 - assess the economic impacts including lost state and local revenues from the materials that are not being recycled, and;
 - identify ways to develop new markets to increase recycling.
- The advisory committee will prepare a written report and submit it to TCEQ for inclusion in the MSW Annual Summary Report.
- According to Representative Thompson’s staff, the study will be financed from existing TCEQ funds from the Waste Assessment & Planning Activities account.

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.

Senate Bill 523 (Birdwell) – 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.
- “River authorities have grown in size and power to the point that oversight and a periodic review have become necessary. Periodic review of river authority duties and functions is necessary to ensure maximized benefit of our state's most precious resource—water.”
- 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.

Senate Bill 709 (Fraser) – Contested Case Hearings and Permits

- This bill makes several significant revisions Administrative Procedures Act, specifically amending provisions related to the contested case hearings process at SOAH on certain TCEQ permit applications.
- Timeline for PFD issuance is specifically defined –must be issued by the earlier of **180 days** from the preliminary hearing OR a deadline specifically established by TCEQ
- The bill provides that for a draft permit that goes to a CCH at SOAH, if the TCEQ ED administratively approved the application and prepared the draft permit, then a prima facie presumption is made that;
 - i) the draft permit meets all state and federal requirements; and
 - ii) a permit issued in the same form as the draft permit will be protective of public health, property, and the environment.
- Opposing parties will have an opportunity to rebut this presumption.

Senate Bill 854 (Zaffirini) – Permit Renewals with GCDS

- Added new section to the Water Code, 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.

Senate Bill 912 (Eltife) – 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.

Senate Bill 1101 (Eltife) – Groundwater Supply in White Areas

- Bill amends Chapter 16 of the Water Code regarding the authority of a Regional Water Planning Group (RWPG) when developing its regional water plan.
- In areas within a RWPG where no Groundwater Conservation Districts exist, the RWPG may determine the supply of groundwater available for regional planning purposes.
- TWDB is required review and approve, prior to inclusion in the regional water plan, that the groundwater supply for the regional planning group without a GCD in its area is physically compatible with the applicable DFCs.

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 requestor the number of ratepayers who reside outside the corporate limits of the municipality; and
 - (2) provide to any requestor 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
- Effective on September 1st

Bills That Did Not Survive

House Bill 14 (Morrison) – Texas Emissions Reduction Plan – **DID NOT PASS**

- Authors determined that the Texas Emissions Reduction Plan (“TERP”) administered by TCEQ needed to be revised to simplify certain programs and clarify issues with existing language.
- Specifically, the changes in HB 14 sought to simplify TERP programs, cleanup problems with existing language, combine the two alternative fuel infrastructure grant programs, and add additional eligible projects under the New Technology Implementation Grant Program.
- Under the bill, TERP was to be extended to 2023, possibly 2025, but the bill died in conference committee.

House Bill 2788 (Springer) – Correctional Facility Compliance - **VETOED**

- 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.

Interim Charges

House Interim Charges

- **House Committee on Environmental Regulation**
- Review the varied regulatory schemes for household hazardous waste disposal and disposal of tire scrap/rubber wastes, and review was to improve and/or incentivize disposal of such wastes.
- Monitor initiatives at the local level to regulate environmental issues. Consider if legislative changes are needed to resolve ambiguous regulations regarding the priority of state or local authority.
- Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 84th Legislature. In conducting this oversight, the charges list 5 specific considerations.

House Interim Charges

- **House Committee on Natural Resources**
- Examine the regional and state water planning processes with emphasis on 6 specific factors.
- Evaluate the status of water markets in Texas and the potential benefits and challenges of expanded markets for water.
- Analyze the factors contributing to freshwater loss in the state, including evaporation, excess flows into the Gulf of Mexico, and infrastructure inefficiencies, and examine techniques to prevent such losses, including aquifer storage and recovery, off-channel storage, and infrastructure enhancements.

House Interim Charges

- **House Committee on Natural Resources**
- Evaluate the status of legislation to encourage joint groundwater planning, including HB 200 (84R), and monitor ongoing legal developments concerning ownership and access to groundwater and the impact of these developments on property rights and groundwater management.
- Determine the sources of water used by Texans in the production of food and fiber, and examine current water delivery methods and water conservation goals for agricultural use.
- Determine if sufficient safety standards exist to protect groundwater contamination from disposal and injection wells. (Joint charge with the House Committee on Energy Resources).

House Interim Charges

- **House Committee on Energy Resources**
- Study the impacts of the declining price of oil and the continuously depressed price of natural gas on the Texas economy and the fiscal implications for the Texas budget.
- Study current renewable energy regulations in Texas in order to more effectively balance federal, state and local regulations.
- Determine if sufficient safety standards exist to protect groundwater contamination from disposal and injection wells. (Joint charge with the House Committee on Natural Resources).

Senate Interim Charges

- **Senate Committee on Natural Resources and Economic Development**
- **Implementation of Federal Regulations:** Study the impact and identify challenges Texas faces implementing proposed federal Environmental Protection Agency regulations, including, but not limited to the Clean Power Plan, Reduction of Methane & Volatile Organic Compounds (VOCs) from oil and gas facilities, Ozone standards, Regional Haze, and Waters of the U.S. Make recommendations for legislative or constitutional action the committee considers necessary.
- **Texas Emission Reduction Plan (TERP):** Study and make recommendations regarding the use of Texas Emission Reduction Plan (TERP) funds, including reducing air emissions from mobile sources in response to changes in ozone standards.

Senate Interim Charges

- **Senate Committee on Agriculture, Water, & Rural Affairs**
- **Surface Water/Groundwater:** Study and make recommendations regarding the ownership, production, and transfer of surface water and groundwater in the state of Texas.
- **State Water Plan:** Study and make recommendations on improving the process of developing and executing the State Water Plan.
- **Water Litter:** Study and make recommendations on the effects of windblown and waterborne litter. The study should include an analysis of the economic effects of litter, any necessary methods to prevent and remediate litter, and an assessment of state and local programs to reduce litter.

Questions?

Thank you!!!

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