

**Lost Pines GCD
Workshop**
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**What does the future hold for
GCD legislation?**

**Recent Legislation & Forecast
of Anticipated Legislation**

Last legislative session there were numerous bills filed concerning groundwater conservation districts ability to manage and regulate. The two most omnibus bills filed were SB 1392 by Senator Charles Perry and HB 31 by Rep Lyle Larson. These bills addressed regulatory certainty and uniformity.

SB 1392 85th Regular Session 2017

- Removed much local management authority from current regulatory authority GCD's have,
- Adoption of common rules over a groundwater reservoir between separate GCD's
- Restrictions on a districts ability to issue special permit conditions
- Repeal of historical use used in permitting consideration
- Uniformity and regulatory certainty of GCD's rules and permitting considerations
- Correlative rights permitting statewide

HB 31 85th Regular Session 2017

- Export permits
- Moratoriums
- Administrative completeness for permit applications

SB 862 85th Regular Session 2017

- Related to the award of attorneys fees and other costs in certain proceedings involving a GCD, or commonly known as "loser pays."

HB 3028 85th Regular Session 2017

-Related specifically to groundwater ownership and rights attempting to put into legislation the concept of fair share allocation based on property ownership

HB 4122 85th Regular Session 2017

-Relating to landowner annexation within adjoining districts

Issues Specific Bills

HB 2377 sought to establish the permitting procedures for brackish groundwater production permits within TWBD identified brackish groundwater productive zones vetoed by Governor Abbott.

SB 862 related to the award of attorneys fees and other costs in certain proceedings involving a GCD, or commonly known as "loser pays."

Permitting Approaches & Procedures

SB 1392, HB 1318, and HB 3028 All three addressed correlative rights in GCD permitting structure.

HB 1318, related to the regulation of production wells for a retail public utility by a GCD sought to put legislation in place to protect a water utility's ability to be allocated a permit in a correlative rights model based on their service area, rather than land ownership.

HB 3028, related to groundwater ownership and rights, attempting to put into legislation the concept of fair share allocation based on property ownership.

None of these bills passed as filed, but there were numerous hours of debate on the policy implications these bills would implement.

Regional Planning & Joint Groundwater Management

SB 1053, SB 1392, SB 1511, HB 2215, HB 3043, HB 3166

Of these bills, only SB 1511 and HB 2215 ultimately passed.

GCD Performance, Annexation, & Administration

HB 180 Role of State Auditors Office

HB 4122 Land Owner Annexation

HB 3025 Opened, uncovered, abandoned, or deteriorated wells.

What Passed

Special thanks to Texas Alliance of Groundwater Conservation Districts, TAGD, for their bill tracking and coordination of efforts on the numerous pieces of legislation impacting Groundwater Conservation Districts.

- SB 865 6/09/17 Effective Date
Relating to a groundwater conservation district's use of electronic fund transfers.
- HB 2215 6/09/17 Effective Date
Relating to the adoption of desired future conditions for aquifers in groundwater management areas and the consideration of those conditions in the regional water planning process.
- SB 1009 9/01/17 Effective Date
Relating to administrative completeness requirements for permit and permit amendment applications for groundwater conservation districts.
- SB 864 6/09/17 Effective Date
Relating to the procedure for obtaining a right to use state water if the applicant proposes an alternative source of water that is not state water.
- SB 1511 9/01/17 Effective Date
Relating to the state and regional water planning process and the funding of projects included in the state water plan.

What Didn't

- HB 2377 VETOED
Relating to the development of brackish groundwater.
- HB 2378 VETOED
Relating to extensions of an expired permit for the transfer of groundwater from a groundwater conservation district.
- HB 3025 VETOED
Relating to open, uncovered abandoned, or deteriorated wells.
- SB 1525 VETOED
Relating to a study by the Texas Water Development Board of water needs and availability in this state.
- SB 1392
Relating to groundwater conservation districts.
- SB 862
Relating to the award of attorney's fees and other costs in certain proceeding involving a groundwater conservation district.
- HB 31
Relating to the regulation of groundwater.
- HB 4122
Relating to the transference of certain territory from one groundwater conservation district to another.

- HB 3166
Relating to the consideration of modeled sustainable groundwater pumping in the adoption of desired future conditions in groundwater conservation districts.
- HB 180
Relating to the review of groundwater conservation districts by the state auditor.
- HB 1318
Relating to regulation of production of wells for retail public utilities by a groundwater conservation district.
- HB 3028
Relating to groundwater ownership and rights.
- HB 3043
Relating to the joint planning process for groundwater management.
- HB 3417
Relating to the criteria considered by groundwater conservation districts before granting or denying a permit.
- SB 189
Relating to notice of an application for a permit to drill certain injection wells within a certain distance of a groundwater conservation district.
- SB 1053
Relating to an appeal of a desired future condition in a groundwater management area.

**Texas House of Representatives
Natural Resources Committee
Interim Charges 2017**
Speaker Joe Straus

1. Examine the following issues within the Committee's jurisdiction regarding Hurricane Harvey and flooding in general: role of regional entities in developing projects to control flooding, both through new infrastructure and enhancing existing infrastructures; mitigation efforts that would reduce the impact of future flood events, and strategies to fund those efforts, and the response of public entities that own or operate dams to large-scale rain events, including how such entities make decisions regarding dam and reservoir operations during such events, coordinate with state and local emergency management officials, and communicate with the public. (Issued September 2017)
2. In conjunction with Charge 1, study the following additional issues related to Hurricane Harvey and flooding in general:
 - a. The development of the initial State Flood Plan by the Texas Water Development Board, and how the plan might be enhanced or focused in light of Harvey;
 - b. Science and data availability and needs related to flood risk and to responding to flood events;
 - c. The best methods of providing state financial assistance for flood infrastructure needs;

- (continued)*
- d. Opportunities for improved collection and storage of flood flows for future supply needs; and
 - e. The role of Voluntary land conservation efforts, including conservation easements, in preventing and mitigating flooding.
3. Evaluate the status of groundwater policy in Texas, including the following issues:
- a. Progress and challenges in encouraging coordination and consistency in aquifer-wide management and permitting practices;
 - b. Developments in case law regarding groundwater ownership and regulation;
 - c. Potential improvements to the existing groundwater permitting process, including those contemplated in H.B. 32 (85 Regular);
 - d. The appropriate consideration of the service area of water supplier when groundwater resources are allocated based on surface ownership;
 - e. The designation of brackish groundwater production zones and related research;
 - f. Groundwater data and science needs; and
 - g. Emerging issues in groundwater and surface water interaction, in particular in areas of increasing competition for scarce resources.

(continued)

4. Examine the status of water markets in Texas and the potential benefits of challenges to expanded markets for water.
5. Examine the potential value, the necessary elements, and the implications of a broad-based information and awareness campaign regarding water issues in Texas. Consider input from water stakeholders, educators, and communications experts.
6. Evaluate the results of the expedited decertification process created under S.B. 573 (82 Regular). Include an evaluation of the process for resolving disputes around this process and assessing compensation for utilities whose service areas are decertified.

**Texas Senate
Agriculture, Water, and
Rural Affairs Committee
Interim Charges 2017**
Lieutenant Governor Dan Patrick

1. **Streamlining Water Permitting:** Study and recommend changes that promote streamlining of water right permit issuance and the amendment process by the TCEQ for surface water, and that promote uniform and streamline permitting by groundwater conservation districts for groundwater. Evaluate more transparent process needs and proper valuation of water.
2. **Regulatory Framework of Groundwater Conservation Districts and River Authorities:** Study and make recommendations on the regulatory framework for managing groundwater in Texas to ensure that private property rights are being sufficiently protected. Study the role of river authorities and groundwater conservation districts including the state's oversight role of their operations and fees imposed.
3. **Agricultural Fees:** Review licensing, permitting, or registration requirements and fees imposed on the agriculture industry by licensing agencies within the committee's jurisdiction. Make recommendations for state licenses and fees that should be reduced, repealed or transitioned to private-sector enforcement.

4 Monitoring: Monitor the implementation of legislation addressed by the Senate Committee on Agriculture, Water & Rural Affairs during the 85th Legislature, Regular Session, including, but not limited to:

- SB 1511 (prioritization in the regional water plan);
- SB 1538 (Floodplain Management Account uses);
- SB 864 (GCD application of state water);
- HB 2004 (Texas economic development fund for TDA); and
- HB 3433 (adoption of rules affecting rural communities. Make recommendations for any legislative improvements needed to improve, enhance, or complete implementation including regional water planning, flood planning, and groundwater production.)

CONCLUSION

Special thanks to Texas Alliance of Groundwater Conservation Districts, TAGD, for their bill tracking and coordination of efforts on the numerous pieces of legislation impacting Groundwater Conservation Districts.

Special thanks also to Greg Ellis for his contribution of information on the Evolution of Chapter 36.

- Both groundwater and surface water issues have evolved over time.
- Surface water, which is owned by the state, has an allocation method through a priority system regulated by the current TCEQ, a governmental agency.
- Groundwater, which is a recognized private property right, has also evolved through the years and is now determined by the state to be regulated by local management, i.e. groundwater conservation districts.
- The balance between protecting private property rights and the conservation, perseveration, protection, recharging, and prevention of waste of groundwater is what local groundwater conservation districts are charged to address. This is an extremely important but controversial (no win) task.
