Texas Water Recycling Association Legislative Update

84th (2015) TEXAS REGULAR SESSION

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This presentation accords zero ethics credits because my subject matter is, after all...
Politics and the Texas Legislature
Statewide Leadership & 84th Texas Legislature – By the Numbers

New Governor
New Lt. Governor
1-New Railroad Commissioner
New Comptroller
New Attorney General
New Land Commissioner
New Agriculture Commissioner
39 New Legislators:
  10 New Senators
  29 New Representatives
Senate – 20 Republicans, 11 Democrats
House – 98 Republicans, 52 Democrats
2015 Major State Issues

• Tax Reduction – Franchise and Residential Property
• Guns – Open Carry & Campus Carry
• Transportation Funding
• Water
  o Regulation and Ownership of Brackish Water
  o The new Aquifer Storage and Recovery Act
  o Ground Water Conservation Districts
• HB 40 - Municipal and Political Subdivision Preemption Act
Water and the 84th Texas Legislature
To understand the legislative session, and water issues within it, you need to start at the beginning…
1836 Election for President of the Republic of Texas

- Gen. Sam Houston
- Henry Smith
- Stephen F. Austin
What Was the Big Fight About This Past Session?
How Much Tax Reductions to Give and to Whom.

Business Franchise Tax and Residential Property Tax Reductions.
What Did Pass?
Business and Residential Property Tax Reductions
Texas Had a Significant Revenue Surplus to Fund Tax Reductions
What’s Good For the Oil and Gas Industry Is Good For Texas

The main reason that the state had sufficient revenue in order to decrease taxes is because of the oil and gas industry and its overall positive effect on the entire state economy.
Business and Property Tax Reductions
Business and Property Tax Reductions

There were two *major* tax reductions passed this session by the Legislature:

1. Franchise tax (HB 32) and

2. Residential property tax (SB 1 and SJR 1).
HB 32 – Franchise Tax Reduction Act of 2015

Finds that the franchise tax has not provided sufficient reliability for property tax relief and establishes the intent of the Legislature to promote economic growth by repealing the franchise tax.

Reduces the franchise tax.
HB 32 - Franchise Tax Reduction Act of 2015

Permanently cuts the basic rates of the franchise tax by 25%.

The rate for retail/wholesale is reduced to 0.375%, and the rate for other industries (such as oil and gas) is reduced to 0.75%.

Permanently cuts the E-Z tax rate by 42% to 0.331% of Texas receipts, and expands eligibility for the E-Z rate to companies with revenues of not more than $20 million, up from the current $10 million.

Does not change the current $1 million small business exemption.
The estimated fiscal impact for the 2016-17 biennium is a reduction in revenue of $2.56 billion (business tax reduction).

The Legislative Budget Board estimates the total cost to the state (and collective business tax reduction):

- 2016 -- ($1,268,643,000)
- 2017 -- ($1,291,384,000)
- 2018 -- ($1,286,313,000)
- 2019 -- ($1,310,256,000)
- 2020 -- ($1,328,712,000)
Requires the Comptroller to conduct a comprehensive study by September 30, 2016, to identify the effects of economic growth on future state revenues.
What Does It Mean?
The hope and plan of state leaders is to phase out the unpopular franchise tax and replace the lost revenue with growth in Sales Tax revenue from a growing economy.
SB 1 - Residential Property Tax Reduction
SB 1 & SJR 1 – Residential Property Tax Reduction

Contingent upon voter approval of SJR 1:

A. Raises the school tax homestead exemption from the current $15,000 to $25,000.

B. Lowers the tax freeze for over-65 homeowners proportionately.

C. Holds school districts financially harmless for the increased exemption.
SB 1 – Residential Property Tax Reduction

The Legislative Budget Board estimates the total cost to the state (and collective residential property tax reduction):

- 2016 -- ($615,868,000)
- 2017 -- ($628,600,000)
- 2018 -- ($644,759,000)
- 2019 -- ($664,580,000)
- 2020 -- ($685,016,000)
Water Legislation
HB 30 – Development of Brackish Groundwater

This Act seeks to encourage and facilitate the development of brackish groundwater and lays the initial framework for the consideration of brackish water supplies for the future.

**Brackish Wells and Brackish Aquifers**

*Groundwater Database Water Quality*

- Slightly-Saline: 1,000<3,000 mg/L TDS
- Moderately-Saline: 3,000<10,000 mg/L TDS
- Brackish Aquifers**

**Total Dissolved Solids (TDS) are measured in milligrams per liter (mg/L)**

**Regions underlain by one or more brackish aquifers (TDS is 1,000<10,000 mg/L)**

If a well had more than one Total Dissolved Solids (TDS) measurement, the most recent measurement was used. No claims are made to the accuracy or completeness of the information shown herein or to its suitability for a particular use. For more information visit [http://www.twdb.texas.gov/innovativewater/bracs/index.asp](http://www.twdb.texas.gov/innovativewater/bracs/index.asp).
HB 30 – Development of Brackish Groundwater

• Requires Regional Water Planning Groups and the Texas Water Development Board [“TWDB”] to investigate and report on opportunities for the development of brackish groundwater (including desalination projects).

• Requires the TWBD to identify and designate local or regional brackish groundwater production zones following certain criteria and report to the Texas Legislature by December 1, 2016.

• Requires the TWDB to include in its report to Texas Legislature that is due by an identification and designation of brackish groundwater production zones for: (1) the portion of the Carrizo-Wilcox Aquifer located between the Colorado and Rio Grande Rivers; (2) the Gulf Coast Aquifer and sediments bordering it; (3) the Blaine Aquifer; and (4) the Rustler Aquifer.
HB 30 – Development of Brackish Groundwater

Recognizes that many in the oil and gas industry in this state have made significant strides to replace the use of fresh groundwater in their operations with brackish groundwater.

Provides that this is a positive trend, and this Act is not intended to discourage the continued or expanded use of brackish groundwater for oil and gas development or to establish regulatory barriers or permitting requirements for the use of brackish groundwater for that purpose.
Oil & Gas E&P Industry Uses Less Than 1% of All Groundwater Used Statewide
HB 655 – Aquifer Storage and Recovery

Aquifer Storage and Recovery (ASR)

Storm/Waste-water to aquifer in wet season
Recovery from aquifer in dry season
HB 655 – Aquifer Storage and Recovery

Creates a regulatory framework for aquifer storage and recovery projects that:

(i) clarifies that an amendment to a water right permit is not required to obtain an aquifer storage and recovery permit;

(ii) grants the Texas Commission on Environmental Quality [“TCEQ”] exclusive jurisdiction to regulate aquifer storage and recovery projects; and

(iii) clarifies that an aquifer storage and recovery project does not have to obtain a permit from a local groundwater conservation district as long as native groundwater is not being produced.
HB 655 – Aquifer Storage and Recovery

Authorizes a water right holder or a person who has contracted for the use of water under a contract to undertake an aquifer storage and recovery project \textit{without obtaining any additional authorization} for the project.

Requires a person described by this subsection undertaking an aquifer storage and recovery project to:

1. obtain any required authorizations regarding injection wells and ground water conservation districts; and

2. comply with the terms of the applicable water right.
HB 497 – Saltwater Lines
HB 497 – Saltwater Lines

Last session, the Legislature passed SB 514 relating to the installation, maintenance, operation, and relocation of saltwater pipeline facilities that helped to set standards for the placement of a saltwater pipeline on a right-of-way.

During rulemaking, there were discussions about expanding the law so as to allow for water to be brought to exploration and production sites as opposed to just transported away from production sites. HB 497 accomplishes that change by allowing for non-produced water lines to also be installed on public roads or right-of-way in order to transport water to exploration and production sites.
HB 497 – Saltwater Lines

Amends the definition of “saltwater pipeline facility" to mean a pipeline facility that conducts water that contains salt and other substances and is intended to be used in drilling or operating a well used in the exploration for or production of oil or gas, including an injection well used for enhanced recovery operations, or is produced during drilling or operating an oil, gas, or other type of well.
Additional Water Legislation

HB 930 – Water Well Driller and Pump Installer Apprentice Programs
HB 1221 – Requires Seller to Disclose Property is in a GWCD
HB 2179 – GWCD contested case hearings and issuance of permits
HB 2230 – Dual authorization of Class II and Class V injection wells for the disposal of non-hazardous brine from a desalination operation or nonhazardous drinking water treatment residuals into a Class II injection well permitted by the Railroad Commission of Texas
HB 2767 – Powers, duties, and fees of GWCDs
HB 4112 – Groundwater ownership rights include rights recognized under common law
SB 200 – Desired Future Conditions
SB 551 – Water Conservation Advisory Council recommendations for water conservation legislation
SB 854 – Permit Renewals with GWCDs
SB 991 – GLO and TWDB study of wind and solar power to develop and desalinate brackish groundwater
Municipal Regulation of Oil & Gas
HB 40 – Municipal and Political Subdivision Preemption Act

I. Adopts a Legislative Finding:

A. By implication, *existing* state law already preempted municipal and other political subdivisions’ regulation of oil and gas operations;

B. This Act recognizes the existing implied preemption; and

C. This Act explicitly preempts such regulation of oil and gas operations.
HB 40 – Municipal and Political Subdivision Preemption Act

Summary: This Act is intended to preserve the right of municipalities to exercise their local police powers to regulate surface activities incidental to oil and gas operations such as fire and emergency response, traffic, lights, noise, and reasonable setback requirements, provided that they:

1. Are "commercially reasonable";

2. Do not effectively prohibit an oil and gas operation; and

3. Are not otherwise preempted by state or federal law.

Otherwise, this bill expressly provides that regulation of oil and gas activities are under the exclusive jurisdiction of the state.
"Knowledge speaks, but wisdom listens."

Jimi Hendrix