



## Texas Alliance of Groundwater Districts

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# TAGD Legislative Summary

## 84<sup>th</sup> Texas Legislature, Regular Session

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The 84<sup>th</sup> Texas Legislature, Regular Session saw the introduction of over 6,000 House and Senate Bills, of which 1323 passed into law and 41 were vetoed by Governor Greg Abbott. Of these, Texas Alliance of Groundwater Districts (TAGD) monitored over 300 bills by way of bimonthly tracking reports to its membership, and of which over 120 were identified as high priority groundwater bills. Regular TAGD Legislative Committee meetings were held throughout session to vote on and discuss those bills, as well as to determine TAGD's position on them.

Statistically, both House and Senate saw an increase in the number of bills filed this year. As such, it was an accurately predicted busy but overall positive groundwater session. TAGD's Legislative Committee showed active engagement throughout, providing expert testimony when necessary and working collaboratively with other stakeholder groups such as the TWCA Groundwater Consensus Committee.

TAGD's membership at large carried this session's particular interest in and focus on Groundwater Conservation Districts (GCDs) well, and can expect a number signed bills to directly affect daily operations, permitting processes, as well as regional planning efforts. The 84<sup>th</sup> Legislative Session also saw a number of local GCD bills, with the creation of two new GCDs, the annexation of the Barton Springs-Edwards Aquifer Conservation District, as well as local election and fee setting bills.

### **GCD Administration and Operations**

A number of positive operational housekeeping bills were passed this session. Two of these provide for the use of GCD websites as being in reasonable compliance with requests under the Public Information Act (HB 685), as well as public meeting posting requirements (HB 3357). Estes' SB 1267 similarly addresses the Administrative Procedure Act, defining the requirements for posting notice of a hearing in a contested case. Keffer's HB 2767 achieved TAGD and TWCA consensus support, serving as a Chapter 36 clean up bill and providing clarification of terminology.



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### Permitting

From a groundwater permitting perspective, the passage of three bills in particular should be noted. HB 2179 cleans up the existing permit hearing process in Chapter 36 of the Water Code, further defining the boundaries of board action as it relates to contested case hearings and preliminary hearings. SB 854 positively streamlines GCD operations by allowing for the automatic renewal of an operating permit without a hearing, provided certain requirements are met.

The passage of HB 655 provides definition of an ASR project and clarification on its permitting process. The bill states that while ASR wells are required to be registered with a GCD and subject to regular well registration fees, TCEQ holds exclusive jurisdiction over its permitting. HB 655 requires TCEQ to limit the recoverable amount of water from the project to the total amount injected, requiring further limitation if it finds unrecoverable losses will occur. The bill further defines that should the project produce more water than the amount authorized for withdrawal by TCEQ, a GCD's spacing production, and permitting rules and fees will apply to the withdrawals above the amount authorized.

### Regional Planning

Much attention was given to the subject of interstate cooperation and the perception of heterogeneous groundwater management. On a state level, HB 163 addresses interstate cooperation and regional water issues by amending Chapter 8 of the Water Code, laying out the conditions for the water commission created to advise the Governor and the Legislature and renaming it the Southwestern States Water Commission. HB 30 similarly addresses regional water planning by requiring the inclusion of large-scale desalination facilities in Regional Water Plans, and expanding the definition of desalination to include both seawater and brackish groundwater.

Perhaps the most significant in regional planning, however, is the passage of HB 200, which revises the Desired Future Conditions (DFCs) appeals process. As part of its revision, HB 200 adds a contested case hearing process for the appeal of a DFC via a State Office of Administrative Hearings (SOAH) hearing and allows a petitioner to appeal a District's final decision to a local district court.

### GCD Boards

Responding to the increasing pressure placed on district board members, the passage of HB 3163 will positively affect GCD boards and their decision making process. HB 3163 states that a district board member acting in their individual capacity is immune from suit and liability for actions taken on behalf of the board.



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Further, HB 3163 determines the attempt to bring suit against a board member for those actions as constituting coercion of a public official.

### Local Elections

The 84<sup>th</sup> Legislative Session also saw the passage of a number of local election bills (i.e. HB 1819, SB 363, and SB 2030). Benefitting further housekeeping and financial savings for GCDs, Fraser's SB 733 extends the deadline for a political subdivision to change its election date to the uniform election date to December 31, 2016.

### New GCDs

#### **HB 2407 Filed Without Signature: Effective Immediately**

Relating to the creation of the Comal Trinity Groundwater Conservation District.

#### **HB 3405 Filed Without Signature: Effective Immediately**

Relating to the territory and authority of the Barton Springs-Edwards Aquifer Conservation District to regulate certain wells for the production of groundwater.

#### **HB 4207 Filed Without Signature: Effective 9/1/15**

Relating to the creation of the Aransas County Groundwater Conservation District.

### Drillers, Real Estate, & Research

Beyond bills directly affecting GCD operations, a number of significant groundwater bills saw success this session. HB 930 amends the Occupations Code by authorizing the Texas Department of Licensing and Registration (TDLR) to reinstate the apprentice driller and apprentice pump installer program. The passage of this bill and restoration of TDLR's programs will help protect Texas aquifers and compliment GCD efforts by ensuring that water well drillers and pump installers receive proper guidance.

Similarly, HB 1221's amendment of the Texas Property Code will compliment GCD involvement in local management by requiring sellers of residential real property to include GCD information as a disclosure form provided to potential buyers. At the state level, the passage of HB 1232 will benefit groundwater management by requiring TWDB to conduct a study to define the quality and quantity of groundwater and to produce a map showing the area and water quality of aquifer by December 31, 2016.

### Bills that were Vetoed

**HB 2647 : Vetoed**



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Relating to a limitation on the authority to curtail groundwater production from wells used for power generation or mining.

Governor Abbott's objections to HB 2647 are expressed in his June 20<sup>th</sup>, 2015 [Proclamation](#), in which he states that HB 2647 "eliminates local discretion by mandating the preferential treatment of certain types of groundwater use over other important uses". Governor Abbott's veto is significant in its protection of GCDs' pursuits to implement management strategies that treat all users equitably, and its recognition of the benefit of local groundwater management that responds to local needs and concerns.

### Looking Ahead

Looking ahead, we expect to see substantial change in Texas water policy leadership. Shortly after session closed, long time water policy champions Sen. Fraser and Rep. Keffer announced that they would not be seeking reelection, followed closely by an announcement of retirement from the Texas Water Development Board Chairman Rubenstein. TAGD intends to participate in the inheritance of their institutional knowledge that has carried the development of Texas water legislation.

With the adjournment of the 84<sup>th</sup> Texas Legislature on Monday, June 1<sup>st</sup>, 2015, TAGD provided its membership with a final tracking report of a total of 40 bills. Governor Abbott had until Sunday, June 21<sup>st</sup>, 2015 to sign or veto bills. Of those 40, the following bills were passed:

### Bills that Passed

- **HB 23 Signed: Effective 9/1/2015**  
Relating to disclosure of certain relationships with local government officers and vendors
- **HB 30 Signed: Effective 6/19/2015**  
Relating to the development of brackish groundwater
- **HB 40 Signed: Effective Immediately**  
Relating to the express preemption of regulation of oil and gas operations and the exclusive jurisdiction of those operations by the state
- **HB 163 Signed: Effective 9/1/2015**  
Relating to interstate cooperation to address regional water issues
- **HB 200 Signed: Effective 9/1/15**  
Relating to the regulation of groundwater
- **HB 280 Signed: Effective 9/1/2015**  
Relating to the information required to be posted by the Texas Water Development



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Board on the board's Internet website regarding the use of the state water implementation fund for Texas.

- **HB 655 Signed: Effective Immediately**  
Relating to the storage and recovery of water in aquifers.
- **HB 685 Signed: Effective 9/1/2015**  
Relating to the production of public information available on the website of a political subdivision of this state.
- **HB 930 Signed: Effective 9/1/2015**  
Relating to water well drillers and pump installers.
- **HB 1221 Signed: Effective 1/1/16**  
Relating to seller's disclosures in connection with residential real property subject to groundwater regulation.
- **HB 1232 Signed: Effective Immediately**  
Relating to a study by the Texas Water Development Board regarding the mapping of groundwater in confined and unconfined aquifers.
- **HB 1378 Signed: Effective 1/1/16**  
Relating to annual financial reporting of debt information.
- **HB 1421 Signed: Effective Immediately**  
Relating to fees charged by the Coastal Plains Groundwater Conservation District.
- **HB 1819 Filed Without Signature: Effective Immediately**  
Relating to the date for the election of directors of the Hill Country Underground Water Conservation District.
- **HB 2031 Signed: Effective Immediately**  
Relating to the development and production of marine seawater desalination, integrated marine seawater desalination, and facilities for the storage, conveyance, and delivery of desalinated marine seawater.
- **HB 2154 Signed: See Remarks for Effective Date**  
Relating to the functions and operation of the State Office of Administrative Hearings.
- **HB 2179 Signed: Effective Immediately**  
Relating to hearings that concern the issuance of permits by a groundwater conservation district.
- **HB 2230 Signed: Effective 9/1/15**  
Relating to the authority of the Texas Commission on Environmental Quality to authorize an injection well used for oil and gas waste disposal to be used for the disposal of nonhazardous brine.
- **HB 2407 Filed Without Signature: Effective Immediately**  
Relating to the creation of the Comal Trinity Groundwater Conservation District.
- **HB 2767 Signed: Effective Immediately**  
Relating to the powers, duties, and administration of groundwater conservation districts.
- **HB 3163 Signed: Effective Immediately**



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- Relating to filing suit against board members of groundwater conservation districts.
- **HB 3357 Signed: Effective 9/1/15**  
Relating to permitted methods for certain political subdivisions to post notice of a meeting.
- **HB 3405 Filed Without Signature: Effective Immediately**  
Relating to the territory and authority of the Barton Springs-Edwards Aquifer Conservation District to regulate certain wells for the production of groundwater.
- **HB 3858 Signed: Effective Immediately**  
Relating to fees charged by the Coastal Bend Groundwater Conservation District.
- **HB 4097 Signed: Effective Immediately**  
Relating to seawater desalination projects.
- **HB 4112 Signed: Effective Immediately**  
Relating to the rights of an owner of groundwater.
- **HB 4207 Filed Without Signature: Effective 9/1/15**  
Relating to the creation of the Aransas County Groundwater Conservation District.
- **SB 363 Signed: Effective 9/1/15**  
Relating to election dates for directors of the Bandera County River Authority and Groundwater District.
- **SB 374 Signed: Effective 9/1/15**  
Relating to requiring state agencies to participate in the federal electronic verification of employment authorization program, or E-verify.
- **SB 551 Signed: Effective 9/1/15**  
Relating to the duty of the Water Conservation Advisory Council to submit a report and recommendations regarding water conservation in this state.
- **SB 733 Signed: Effective Immediately**  
Relating to the authority of certain political subdivisions to change the date of their general elections.
- **SB 854 Signed: Effective 9/1/15**  
Relating to the renewal or amendment of certain permits issued by groundwater conservation districts.
- **SB 991 Signed: Effective Immediately**  
Relating to a requirement that the General Land Office and the Texas Water Development Board conduct a study regarding the use of wind and solar power to develop and desalinate brackish groundwater.
- **SB 1101 Signed: Effective 9/1/15**  
Relating to the authority to determine the supply of groundwater in certain regional water plans.
- **SB 1267 Signed: Effective 9/1/15**  
Relating to contested cases conducted under the Administrative Procedure Act.
- **SB 1336 Signed: Effective 9/1/15**  
Relating to the construction of laws and election dates of certain groundwater conservation districts.



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- **SB 1812 Signed: Effective Immediately**  
Relating to transparency in the reporting of eminent domain authority and the creation of an eminent domain database.
- **SB 2030 Signed: Effective 9/1/15**  
Relating to the election date of the North Plains Groundwater Conservation District.
- **SB 2049 Signed: Effective 9/1/15**  
Relating to qualifications of members of the board of directors of the Lone Star Groundwater Conservation District.