

## Water Bills - Summary of the 2013 Texas Legislative Session

Now that the Texas Legislature has completed its regular session and first special session, I have compiled a list of the major water-related bills considered by the 83rd Texas Legislature.

Not surprisingly given the current drought, water was a major issue considered by the Legislature. The complete text of any bill below may be viewed at [Texas Legislature Online](#) by simply entering the bill number.

### Bills that passed the Legislature and were signed by the Governor

**HB 4:** This legislation creates a \$2 million state water implementation fund that would collect revenue to help provide financial assistance for water-related government projects, infrastructure, and conservation projects. The bill would also require the Texas Water Development Board to create a committee of officers from each of Texas' regional water planning groups in order to determine the priority of projects for funds to be awarded. The bill requires that at least 20% of the projects be dedicated to water conservation and reuse, and that 10% of the fun be allocated for projects in rural areas. The funding for this \$2 million fund would come from the state's "Rainy Day Fund." The bill also changes the Texas Water Development Board from a six-member volunteer Board to a Governor appointed full-time entity of three paid commissioners. This bill has been signed by the Governor, but before the \$2 million fund may be established, a joint resolution will be put on the ballot in November and must be approved by voters.

**SB 198:** The bill makes it illegal for a homeowners association to prohibit xeriscaping, drought-resistant landscaping, or water-conserving natural turf.

**HB 252** requires that public utilities and entities that provide water for a utility's retail system must provide notice to the Texas Water Commission when it believes that its water supply will be depleted in less than 180 days.

**SB 385** authorizes municipalities and counties to work with commercial lenders and property owners to develop improvement projects that will decrease water or energy consumption. The program is known as PACE, which stands for Property Assessed Clean Energy. This bill was passed by the House and unanimously in the Senate, and was signed by Governor Perry.

**SB 654** allows municipalities to enforce water ordinances through a civil action, rather than bringing criminal suits.

**SB 700** requires the State Energy Conservation Office to develop a template for state agencies to use in creating comprehensive and water management plans, requires that agencies set percentage goals for reducing its water, electric and gas usage, and requires that state agencies update these plans annually. The State Energy Conservation Office is

also required to submit a report to the governor on the status and effectiveness of these efforts every other year and to publish such reports on its website.

**HB 857, HB 1461 and HB 3605:** This series of bills, which were signed by Governor Perry, require utility companies to conduct annual audits of water lines to check for water loss, to inform customers of audit results, and to use a portion of state assistance funds in order to repair leaks discovered by such audits.

**SB 1870** created the West Fort Bend Water Authority and outlines the powers of the Authority.

**HB 2615**, which was signed by Governor Perry in June 14, 2013, increase penalties when water-rights holder fail to submit their required annual reports to the state. Penalties will now be \$100 per day if the water right allows for less than 5,000 acre-feet per year, or \$500 per day if the right allows for more than 5,000 acre-feet per year.

**HB 2781** requires certain all new state building with a roof measuring at least 10,000 square feet will employ rainwater harvesting. The bill also requires that privately owned rainwater collection devices with a capacity of more than 500 gallons be equip with backflow prevention or an air gap, and that owners give written notice when they will use the public water supply as an axillary source of water.

**HB 3233** specifies the information that must be included in an application for interbasin transfer of state water. Specifically, an application must include the contract price, proposed use of water, and a description of the proposed uses and users, the cost of converting, conveying, distributing and supplying the water. The bill deleted the prior requirement that an application include the projected effect of a transfer on user rates and fees for each class of rate payer. The bill also specifies procedures to be followed when bringing a challenge to an interbasin transfer.

**HB 3604** requires water-suppliers to implement both water conservation and drought contingency plans when a drought disaster is declared in their county. Previously, the entities were able to implement one or the other of the plans, but were not required to implement both.

### **Bills that were introduced but were not passed and/or signed by Governor Perry**

**SB 272**, which would have required all well owners to report water usage to the Texas Water Development Board, passed the Senate, but was left pending in the House Natural Resources Committee. The bill's water reporting requirement would have applied to all wells, including wells used solely for domestic and livestock uses, which are presently exempt from permitting requirements. At present, there is no state-wide reporting requirement for groundwater well usage, although some groundwater conservation districts do require such reporting.

**SB 302** also died pending in committee. This bill essentially increased state oversight of local groundwater conservation districts. It proposed amendments to the Water Code as related to the filing of water management plans, and specifically required that all groundwater management plans must be designed to meet desired future conditions or face action by the state.

**SB 873** would have clarified the authority of groundwater districts to require permits for water wells where the water is used for fracking of oil and gas by allowing districts to require permits for fracking wells, but not mandating that they do so. Currently, Texas law exempts water wells used for "drilling or exploration" operations from having to obtain permits, but it is unclear whether fracking wells fall within this category. This bill passed the Senate, but did not receive a hearing in the House.

**HB 1160** would have allowed the community of Blue Mound to obtain the right to run its own water system. Blue Mound residents claim that privately owned Monarch Utilities is currently charging excessive rates for water. Although the bill passed the Legislature, it was vetoed by Governor Perry. Governor Perry's veto statement cited concern that the bill "would provide a disincentive for development by private utilities."

**HB 1173** would have provided a tax credit to people who install drip irrigation or rainwater harvesting on their properties by allowing an exemption from ad valorem taxes on a portion of the property. This bill never made it out of the House.

**HB 1189** was intended to create a Southwestern States Water Commission to work with neighboring states regarding water issues. The intent of the bill, according to its sponsor, Rep. Lyle Larson, was to avoid costly litigation with neighboring states related to water. It was left pending in the House Natural Resources Committee.

**SB 1760/ HB 2578** also died in committee. These bill would have required regional planning groups to identify opportunities for, and benefits of, developing large scale desalination facilities for brackish groundwater.

**HB 2708** sought to impose a "water consumption tax" upon residential water users using more than 81,000 during a three month period. No action was taken by the House Natural Resources Committee on this bill.

**HB 3013** was intended to encourage aquifer storage and recovery, and to develop guidelines for these projects. The bill passed the House, but no action was taken in the Senate Natural Resources Committee before the session ended.

**HB 3167** would have created an emergency assistance program to provide funds to towns and municipalities due to water shortages. The bill was left pending in committee.

**HB 3234** would have set deadlines for the processing of applications for water rights permits. The bill was voted down in the Senate Natural Resources Committee.

**HB 3250** would have given give landowners the ability to require groundwater conservation districts to reduce overall production of groundwater when the rate of drawdown affects wells by requiring that groundwater conservation districts either reduced permitted production of groundwater for all permit holders, or to supply additional water via pipeline. The bill was left pending in the House Natural Resources Committee.