

Legislative Update

Below are bills of interest and their status. There will be a few other bills that will be touched on during the meeting.

HB 30 (Larson) – Brackish Bill; *Passed the House on 5/7/15*

HB 40 (Darby) – Denton Fracking Bill; *On the Governor's Desk to be signed*

HB 200 (Keffer) – DFC Appeal Process/Cleanup; *Being heard in the Senate Ag, Water, & Rural on 5/11/15*

HB 655 (Larson) – ASR Bill; *Passed House, being heard in the Senate Ag, Water, & Rural on 5/11/15*

HB 2647 (Ashby) – Steam Electric Reduction; *Passed House, Senate received from House 5/5/15*

HB 3356 (Lucio) – Retail Public Supply Service Area/Needs Considered; *Passed House 5/8/15*

SB 611 (Perry) – Water Production Report Confidentiality; *Passed Senate; Heard in House Natural Resources on 5/6/15; Left pending*

GCD LEGISLATIVE UPDATE 5/13/15

BILL	AUTHOR	STATUS	COMMENTS
HB 30	Larson	Passed the House on 5/8 and received in the Senate on 5/11	This bill requires Regional Water Plans to include considerations related to large-scale desalination facilities. Changes “seawater desalination” to “seawater or brackish groundwater desalination” in Chapter 16, Water Code. Requires TWDB, in conjunction with GCDs and stakeholders, to identify brackish groundwater productions zones that meet certain standards (and include those in the biennial desalination progress report). There are no longer any provisions that amend Ch. 36.
HB 40	Darby	05/06/2015 Enrolled Sent to the Governor	This bill passed, and was in response to the City of Denton banning fracking within its city limits. The bill bans all political subdivision from regulation any activity that is associated with oil and gas (only RRC has jurisdiction). GCDs are concerned that the bill covers them, too, and would ban GCDs from regulating and O&G wells. They would not amend the bill, but only read the intent not to affect GCD regulation when passing the bill in both House and Senate. This issue will likely be litigated in the future.
HB 200	Keffer	Passed House, sent to calendar in Senate	This bill primarily changes the appeal process for DFCs. No longer will petitioners file a petition to challenge the DFCs with the TWDB. With this bill, the petitioner would be able to go straight into a contested case hearing with the SOAH (State Office of Administrative Hearings), and then appeal to the local district court under Substantial Evidence review. The petitioner could only challenge the district(s) where they have an issue, and do not have to include all of the GCDs in the GMA in the contested case hearing.
HB 655	Larsen	Passed House on 4/22 and pass Senate committee on 5/12	Gives TCEQ exclusive authority over ASR projects.If project produces more water than the amount authorized for withdrawal by TCEQ, a GCD’s spacing, production, and permitting rules and fees will apply to the withdrawal above the amount authorized. Requires ASR wells to be registered with GCD and subject to regular well registration fees.
HB 898 SB 611	Ashby Perry	SB 611 referred to HNR, and had hearing on 5/6/15. Many legislators in the House did not like it	This bill would allow permit holders to request that production reports are kept confidential and the district would not be able to release the information under the Public Information Act. In my legal opinion this bill violates public policy of Open Government by making all groundwater production information confidential. For example, on the Railroad Commission website, all monthly O&G production reports are easily available by operator. It also makes it difficult for GCDs to operate when the crux of GCD authority relates to groundwater production. It’s required information for hearing/board meetings for permits, permit amendments, review of fees paid, hydrologic info and maps, enforcement of dfcs, etc.

HB 930	Miller	passed House on 5/4 and referred to Senate committee	Authorizes TDLR to reinstate the apprentice driller and pump installer programs
HB 950	Lucio III	passed House on 4/30 and referred to Senate committee	Deletes the requirements the State Auditor's Office review groundwater management activities in Chapter 36, and the SAO can only conduct a financial audit, if necessary. TCEQ has sole authority to act if GCD is not functional.
HB 1221	Lucio III	passed House on 4/10 and placed on Senate intent calendar on 5/13	This bill amends Section 5.008(b) of the Property Code, Seller's Disclosure of Property Condition, to include disclosure of whether any portion of the property is located in a groundwater conservation district, a subsidence district, or other special purpose district with the authority to regulate the withdrawal of groundwater.
HB 1232	Lucio III	passed House on 4/10 and placed on Senate intent calendar on 5/13	<p>H.B. 1232 requires TWDB to study, define, and map the quality and quantity of groundwater in confined and unconfined aquifers in the state of Texas and report the results to the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and house of representatives that have jurisdiction over natural resources. By doing so, Texas will be better equipped to address the state's water issues with more accuracy and efficiency.</p> <p>H.B. 1232 amends current law relating to a study by the Texas Water Development Board of the hydrology and geology of the confined and unconfined aquifers in this state.</p>
HB 1248 HB 1458 SB 854	Lucio III Isaac Zaffarini	passed house 4-30-15, received in Senate on 5/4	<p>Requires GCDs to implement automatic renewal of production permits without a hearing, as long as renewal application fees are timely paid the permittee does not request a change that would require a permit amendment.</p> <p>Permittees are not entitled to automatic renewal if</p> <ol style="list-style-type: none"> (1) they are delinquent in paying GCD fees; (2) there is a pending GCD enforcement for a substantive violation of the permit, an order, or a rule; or (3) the permittee has failed to pay a penalty or failed to comply after a violation. <p>If a GCD denies an amendment request, this bill would require the GCD to offer a permittee an opportunity to renew a permit as it existed before the permit amendment process.</p>

HB2179 SB 1414	Lucio III Estes	passed House on 5/5 passed Senate committee on 5/12	This is the TWCA contested case hearings bill. It makes a number of changes to the permit hearing process in Ch. 36, mostly aimed at clearing up confusion in existing law. This bill requires a groundwater conservation district to hold a public hearing on an application for a permit. If there is no protest during this hearing, the board may take an expedited action at any subsequent board meeting, including a meeting immediately following the public hearing. If there is protest, the board shall begin the process of a contested case hearing by scheduling a preliminary hearing to determine the appropriate parties and issues. If any protestant has standing and has raised a justiciable issue, a presiding officer or authority will hold an evidentiary hearing, and once the evidentiary hearing is concluded, issue a proposal for decision. The board shall then consider the proposal for a decision in a final hearing, during which the parties summarize the evidence, present any legal arguments, or argue exceptions to the Proposal for Decision.
HB 2647 SB 1122	Ashby/ Larson Estes	passed House on 5/5 passed Senate committee on 5/12	This bill allows power generation permits to be able to be delayed or possible exempted from future production cutbacks.
HB 2767 SB1122	Keffer Estes	passed House on 4/30 passed Senate comm on 5/12	TWCA Chapter 36 clean up bill
HB 3163	Cyrier	Placed on House calendar 5/11	C.S.H.B. 3163 amends the Water Code to establish that for liability purposes only a director of a groundwater conservation district is considered a district employee under the Texas Tort Claims Act even if the director does not receive fees of office voluntarily, by district policy, or through a statutory exception. The bill grants a director immunity from suit and immunity from liability for official votes and official actions.
HB 3356	Lucio III	set on house calendar 5-7-15	Requires GCDs to use retail public utility's service areas within a GCD for its water rights in relation to required production acreage. Allows retail public water utility's to take private property rights within a retail public water utility's service area.
HB 3357	Lucio III	passed House on 5/5 ref to Senate comm. on 5/7	Allows political subdivisions, including GCDs, to post notice of a meeting either by providing notice to the county clerk of the county in which the administrative office of the district is located or posting notice on its website
HB 4112	Burns	sent to calendars on 5-1-15	adds "any other right recognized under common law" to the rights listed in 36.002.