

LEGISLATIVE UPDATE

1. TWCA 2004 Fall Meeting

Rep. Robert Puente and Sen. Frank Madla addressed the TWCA's fall meeting, held in San Antonio Oct, 14 and 15.

Rep. Puente, Chairman of the House Natural Resources Committee, noted that desalination of brackish groundwater was one of the limited number of interim charges given his committee by Speaker Craddick. He told attendees to expect a report on the subject by the end of the year.

Puente noted that issues related to groundwater have proliferated since SB 1 – and specifically its junior water rights provisions – became law. The state needs to look carefully at the different proposals now being circulated, he said. These include:

- allowing the Texas Attorney General to serve as a resource to groundwater conservation districts.
- establishing a base foundation of uniform rules for GCDs throughout the state under the Texas Administrative Practices Act with room for “tweaking” to fit local circumstances.
- consolidating GCDs to create single-aquifer districts.
- giving regional water planning groups oversight of area GCDs.

“These are ideas that have come forward,” Puente said, “and we have to address them.” He added that some proposals have developed because various interests have not been able to resolve issues at the local level.

Sen. Madla, Chairman of the Senate Interim Subcommittee on the Lease of State Water Rights, said water will be a key issue in the upcoming legislative session, second only to public school finance. “It is going to monopolize our time,” he predicted.

Madla said his subcommittee is in the process of finalizing its report. Some of the proposed recommendations are to:

- repeal legislation allowing water to be piped into the Rio Grande and transported downstream. Problems with this concept, Madla said, include evaporation losses and treaty issues.
- clarify that a majority vote of the School Land Board is required to contract with entities for the sale of water under school lands. Madla noted that the Land Commissioner is one of three members of the commission.
- set up an oversight authority for developing resources on public school properties. appointments would be made by the Governor, Lt. Gov., and Speaker of the House.
- require that the State sell water from state lands directly to municipalities rather than through a middleman.

- create a statewide groundwater district for all areas not now included within a GCD. Regulations would be similar to those of a GCD; property owners could opt to belong to the statewide district or to their local GCD.

Those with property inside groundwater district boundaries must abide by certain regulations that don't apply to those outside the boundaries, Madla said. "There should be a level playing field."

Madla also said the Rule of Capture will be modified "in some shape or form." Because of problems in some districts, there is "some sentiment toward redefining 'historical use'," he noted.

However, he continued, "these are suggestions; the report is not final."

"We have to manage water wisely," he said, "to guarantee water for future generations." Madla stressed that the State has a responsibility to people who live in rural areas, "that there will be water for their communities."

2. Nov. 3 Committee Hearings

Two committee hearings are scheduled for Wednesday, Nov. 3, in the Austin, according to Senate staff. The committees will meet in the Senate Finance Committee Room in the Capitol. Notice will be posted five days in advance.

At 9:30 a.m., the Joint Committee on Study Commission on Water Environmental Flows will meet. The agenda will include an overview of the report from the Scientific Advisory Panel, followed by Q&A, then a discussion of the committee's policy charges, and public testimony.

At 1:30 pm, the Senate Select Interim Committee on Water Policy will meet. The agenda will include:

- overview of historical use as a groundwater permitting tool (its uses and applications, both successful and controversial).
- overview of major surface water permitting issues impacting groundwater policy (reuse, four corners, junior water rights, interbasin transfers).
- status and summary of the City of Marshall's appeal to the Texas Supreme Court. (Lower courts reversed TCEQ's decision to approve the city's request to amend its water right permit to add an industrial purpose use. Oral arguments before the Supreme Court are scheduled for Oct. 21. For background, go to www.tceq.state.tx.us/comm_exec/communication/media/12-03marshall.html)
- public testimony.