

## **Legislature Passes Comprehensive Bill Regarding Water Planning, Management**

*By Alan Petrov*

After much haggling and many late night sessions, Senate Bill 1, relating to the development and management of water resources of the state, passed both the House and Senate and now awaits the Governor's signature.

Though somewhat less extensive than the version originally introduced, SB 1, as passed, is nearly 100 pages in length and provides a comprehensive framework for water planning, development and management in Texas. Due to the length of the bill, a full explanation of every aspect of SB1 is beyond the scope of this newsletter. However, this article will summarize some key points. Article 1 of SB1 relates to state water planning and requires the Texas Water Development Board (TWDB) to adopt a state water plan that provides for the orderly development, management and conservation of water resources by Sept. 1, 2001, with an update every five years thereafter.

The comprehensive state water plan also, must include provisions for the preparation and response to drought conditions and is to be developed from regional water plans devised within regional water planning areas. These regional water planning areas are to be designated by the TWDB no later than Sept. 1, 1998.

No later than 60 days after the designation of a regional planning area, the TWDB is required to designate representatives within each region to serve as the initial coordinating body for planning. This coordinating body then will designate representatives to serve on the regional water planning group to ensure adequate representation from various interest groups.

SB1 further sets forth specific procedures to be followed by the regional planning groups in developing regional water plans. Once adopted, the regional water plans are to be submitted to the TWDB by Sept. 1, 2000, so that they may be incorporated into the State water plan.

### **Management, Transfers**

Article 2 of SB1 focuses on water management, marketing and transfers. This portion of SB 1 amends several sections of Chapter 11 of the Texas Water Code relating to the acquisition of water rights, the delivery and interbasin transfer of water and water supply contracts. One such amendment places several new restrictions on interbasin transfers of water. However, transfers to certain coastal basins have been exempted from the new restrictions.

In addition, Chapter 15 of the Texas Water Code is revised in several sections relating to the Texas Water Bank.

Through the Water Bank, the TWDB will 1) act as a clearing house for water marketing information, 2) prepare and publish a manual on structuring water transactions,

3) accept and hold donations of water rights to meet in stream water quality, fish and wildlife habitat or bay and estuary inflow needs and 4) take such other actions as necessary to facilitate water transactions.

Article 3 amends Chapter 11 of the Texas Water Code by adding new sections relating to enforcement of water rights, including provisions for both civil and administrative penalties for the unauthorized diversion, impoundment or use of surface water.

The new sections also give the TNRCC's water master or the water master's deputy the right to issue field citations (a type of "water traffic ticket") for such violations.

Article 4 of SB1 focuses on surface water and ground water supply. This portion of the bill contains numerous revisions to those sections of the Texas Water Code relating to water rights, permitting and permits for the storage of water in underground aquifers. In addition, several revisions are made to Chapter 35 of the Texas Water Code relating to the designation and delineation of priority ground water management areas and Chapter 36, relating to the creation and operation of ground water management districts.

Among the new requirements contained in the amendments to Chapter 36 for ground water management districts are requirements that such districts adopt a management plan that is consistent with regional water plans for the area and that such districts' management plans be submitted to the TWDB for review and certification.

### **Use of Funds for Fees**

Another significant amendment to Chapter 36 allows ground water management districts to use funds obtained from permit fees for any purpose consistent with the district's certified water management plan, including making grants, loans or contractual payments to achieve, facilitate or expedite reductions in ground water pumping, or the development or distribution of alternative water supplies.

This revision to Chapter 36 appears to give districts such as the Harris-Galveston Coastal Subsidence District new authority to fund the design and construction of water-supply and distribution systems.

SB1 next addresses financial assistance for water needs and conservation in Article 5 of the bill. Specifically, SB1 establishes a new water financial assistance bond program to be administered through a new board fund known as the Texas Water Development Fund II. A new Subchapter L is added to Chapter 17 of the Texas Water Code, setting forth the conditions for issuance of water financial assistance bonds and the administration of the Texas Water Development Fund II program.

### **Small Communities**

Article 6 of SB 1 is entitled "Small Communities Assistance" and amends several sections of Chapter 13 of the Texas Water Code relating to water utility rate regulations

and the granting of certificates of public convenience and necessity for the provision of water utility service.

The revisions allow the TNRCC to place conditions on new investor-owned water utility systems in order to ensure their continued ability to provide adequate service to customers.

For example, under one amendment in Article 6, a person may not even begin construction on an investor-owned public drinking water system unless 1) the TNRCC has approved the plans and specifications for the system and 2) the prospective system owner or operator has demonstrated the financial, managerial and technical capabilities to ensure future operation of the system in accordance with applicable laws and regulations.

### **Water Model**

Article 7 of SB 1 entitled “Water Data Collection and Dissemination” requires the TNRCC to obtain and develop an updated water availability model for all Texas river basins no later than Dec. 31, 2001.

Lastly Article 8, entitled “Interim Committee on Water Resource Development and Management,” establishes a committee of five members each from the Senate and House to review the implementation of SB 1 and develop recommendations to assist Texas communities with their water supply and wastewater infrastructure needs.