

86th Legislative Session: Some Groundwater Bills to Watch

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- **SB 1010 (Perry) - “Relating to rules adopted by groundwater conservation districts overlying a common aquifer.”**
 - Prevent a GCD from making or enforcing a rule that is not similar to a rule made or enforced by another GCD that overlies the same aquifer, unless the rule is authorized by other law or the district’s management plan explains the reasoning behind the rule.
- **SB 851 (Perry) - “Relating to the award of attorney's fees and other costs in certain proceedings involving a groundwater conservation district.”**
 - Change the law to allow a judge to award attorney’s fees and costs to any prevailing party in a suit to which a district is a party. It would also cap the fees and costs that may be awarded at \$250,000.
- **HB 2125 (Burns) - “Relating to the award of attorney's fees and other costs in certain suits involving a groundwater conservation district.”**
 - Similar to SB 851, but a court “may” rather than “shall” award attorney’s fees and costs to a prevailing district. The attorney’s fees that may be awarded to a district would be capped at \$100,000.
- **HB 1806 (King T.) (Companion - SB 1170 by Campbell) - “Relating to the use of water withdrawn from the Edwards Aquifer by certain entities.”**
 - Allow a retail public utility that is an initial regular EAA permit holder to use Edwards water to provide retail water service to an area where it is permitted to provide retail water service.
 - Allow San Antonio Water System to sell Edwards water at wholesale to a retail public utility or river authority for use in a county adjacent to the EAA’s boundaries.

Aquifer Storage and Recovery (ASR) Bills

- **HB 721 (Larson) - Relating to the duty of the Texas Water Development Board to conduct studies of and prepare and submit reports on aquifer storage and recovery.**
- **HB 1617 (Larson) - (Companion - SB 1041 by Taylor) Relating to the deadline by which the Texas Water Development Board is required to identify and designate brackish groundwater production zones for certain areas of the state.**
- **HB 724 (Larson) - Relating to the authorization by the Texas Commission on Environmental Quality of the discharge, diversion, and transfer or other reuse of treated brackish groundwater and return flows derived from treated brackish groundwater.**
 - Would allow the discharge of treated brackish groundwater into a watercourse or a stream for diversion or reuse.
- **HB 720 (Larson) - “Relating to appropriations of water for use in aquifer storage and recovery projects.”**
 - Allow a water right holder to use water conferred by that right in an ASR project and subsequently retrieve and use the water under the same right without having to obtain any other authorization.
 - Provide for the diversion of excess flows – now called “unappropriated flows” – that would otherwise flow into the Gulf of Mexico.
 - Direct the TCEQ to create expedited procedures for acting on a new application or amendment related to these water rights.
 - Lastly, for water rights holders that want to convert the use of their water right from reservoir storage to ASR, the bill would, in some situations, provide a rights holder with an evaporation credit. This credit would allow the holder to increase their diversion rate or the amount of their diversion based on what would have been lost to evaporation.

Today's Bills (3/6/19)

- **HB 726 (Larson) - "Relating to the regulation of groundwater."**
 - Make GCD rules effective on the date when an application for a new permit or a permit amendment is submitted the only rules that may govern a decision to grant or deny a permit.
 - Prohibit a GCD from requiring a separate permit for the export of groundwater for use outside of its boundaries or imposing more restrictive requirements on exporters and the denial of a permit because an applicant intends to export.
 - Combine and automatically extend the terms of export and production permits.
 - Prohibit the extension of permit moratoriums past their initial 90-day term.
- **HB 1066 (Ashby) (Companion - SB 800 by Perry) - "Relating to extensions of an expired permit for the transfer of groundwater from a groundwater conservation district."**
 - Like HB 726, would combine and automatically extend the terms of export and production permits.