

## Legislative Summaries: 78<sup>th</sup> Legislature 9-19-03

### HB 1

Author: Representative Heflin Sponsor: Senator Bivins

Caption: General Appropriations Act

Summary: The following appropriations were made to the TCEQ in HB 1

- \$340 million in 2004 in all funds
- \$335 million in 2005 in all funds
- approximately \$42.5 million in 2004 and \$40.4 million in 2005 in federal funds

TCEQ-related actions included in HB 1:

- **General Revenue** - \$54.5 million is appropriated to the agency for 2004-05, a reduction of \$9.5 million from 2002-03 amounts;
- **PST Program** - appropriation reduced by \$63.7 million to \$122.7 million;
- **LIRAP** - appropriations for the low income repair assistance program were reduced by \$16.4 million to \$21.4 million, plus funds from any additional counties that may voluntarily enter the vehicle emission inspection or the LIRAP program are also appropriated;
- **Waste Management Account** - appropriations for solid waste programs from Fund 549 were reduced by \$3 million;
- **Superfund** - appropriations for the program were reduced by \$7 million to a total of \$61.6 million;
- **Low Level Radioactive Waste Account** - for the biennium, \$246,000 is appropriated, plus an additional \$1.7 million through a contingency rider for HB 1567 (disposal of radioactive waste);
- **Staffing** - the TCEQ's FTE cap in the appropriations bill (Article VI) is 3,043 in 2004 and 3,044.5 in 2005, however, further adjustments will be made to reflect changes required under Article IX);
- **Air Modeling Project** - rider appropriates \$1.5 million from Fund 151;
- **Capitol Budget** - \$18,191,272 appropriated for the biennium;
- **Texas River Compact Commission** - rider requires TCEQ to provide administrative costs of \$10,700 each fiscal year;
- **Economically Distressed Areas** - rider requires TCEQ and TWDB to jointly support TDH's costs to perform public health nuisance surveys in the EDAP areas (not to exceed \$250,000 in the biennium);
- **Environmental Testing Laboratory Accreditation Account** - rider limits TCEQ's appropriation to \$50,000 in 2004 and \$88,000 in 2005, plus any fee revenues in excess of the Comptroller's revenue estimate for the biennium;
- **Environmental Health Institute** - rider requires TCEQ to provide funds from either the Superfund account or SEP dollars in an amount not to exceed
- **Bosque River** - adopted rider requiring water quality monitoring in the watershed;
- **Waste Tires** - rider allows TCEQ to carry forward \$7.5 million in grant funds



employing up to 250 people.

Effective: Signed by the Governor 5/20/03; effective 9/1/03.

**HB 555**

Author: Representative Chisum                      Sponsor: Senator Armbrister

Caption: Relating to notice requirements for certain portable facilities under the Clean Air Act.

Summary: Exempts the relocation of portable facilities from public notice requirements if a portable facility has been located at a site any time during the previous two years. This bill also requires application of a 440-yard distance requirement from a school, residence or place of worship, for only those structures that are in use at the time an application is filed with the Commission.

Effective: Signed by the Governor 6/18/03; effective immediately.

**HB 638**

Author: Representative Chisum                      Sponsor: Senator Armbrister

Caption: Relating to emissions reductions incentives and the emissions reductions incentives account.

Summary: Changes the eligibility criteria for emission reduction grants for retrofitting engines at certain oil and gas pipeline facilities to require a 50% reduction in emission rates, rather than a 50% reduction in actual emissions from qualifying engines. The bill also prohibits the TCEQ from imposing emission reduction criteria more stringent than those already required to obtain a pipeline facilities permit; prohibits persons who contribute funds to the emissions reduction incentives account from receiving money from the account; and establishes that certain internal combustion engines associated with pipelines that have been grandfathered from permitting are permitted by statute.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 1152**

Author: Representative Puente                      Sponsor: Senator Estes

Caption: Relating to the authority of certain nonprofit water supply corporations to establish and enforce customer water conservation measures.

Summary: Provides nonprofit water supply corporations and sewer service corporations located in a county with less than 3.3 million people the power to establish and enforce reasonable customer water conservation measures and prohibit excessive or wasteful uses of potable water.



four years for TERP. It also made changes to the design and operation of the program:

Under the bill, funds are allocated in the following manner:

- 87.5% to TCEQ;
- 9.5% for Texas Council on Environmental Technology (TCET) - 20% of their share must go to the Texas Environmental Research Consortium and \$500,000 to near nonattainment activities;
- 3% for Administration (includes amounts to the Texas A&M lab);
- funding for Comptroller (low emission vehicle rebate program) and PUC (energy efficiency grants) was not included.

The revenues for the TERP program are expected to be approximately \$123 million in FY 2004 and \$157 million in FY 2005.

Additions/changes to the sources of revenue for the TERP account:

- expands the collection of surcharges on diesel engines and equipment to include purchases made out of state for in state use;
- establishes a 2% surcharge on on-road diesel vehicles 1996 or newer weighing over 14,000 pounds (currently there is a 2.5% surcharge on vehicles 1995 or older, at that weight category);
- increases the vehicle title transfer fee by \$20 in “affected counties” and \$15 in other counties in the state.

The bill also:

- Expands the list of “affected counties” eligible for the diesel grants program to include Hood, Henderson, Hunt and “any other county designated by the commission;”
- Expands eligibility for diesel grants to include stationary engines, engines that use all types of fuels (not just diesel), and provides flexibility to TCEQ to expand to include other vehicles;
- Re-defines on road diesel vehicle to include vehicles weighing 8,500 pounds or more (was 10,000 pounds or more);
- Prohibits the agency from altering a speed limit for environmental purposes, but retains the speed limits currently in place in the nonattainment areas;
- Requires TCEQ to provide assistance to small businesses to increase their participation in the diesel grants program and requires TCEQ to file a biennial report with the Legislature on the progress of those efforts;
- Requires TCEQ to conduct an outreach program in near non-attainment areas concerning energy efficiency initiatives;
- Requires TCEQ to develop a method to compute emissions reductions obtained through energy efficiency initiatives;
- Allows governmental agencies to offer preference to vendors who meet or exceed state or federal environmental standards;
- Clarifies provisions regarding building codes and provides the General Land Office



- redefines and clarifies the terms and conditions of strategic partnership agreements between districts and municipalities;
- amends various contracting provisions, including those related to board approval of contracts and exceptions to competitive bidding requirements;
- provides for the assumption of office by directors running unopposed for a district board;
- amends various provisions of district bond authority, including those related to exceptions from approvals for refunding bonds and notes or bonds issued to and approved by the North American Development Bank, repayment of bonds and elections on tax bonds;
- establishes specific procedures and form of notices of tax hearing by a district board;
- amendments to the authority under which land or other property may be excluded from a district, including providing that a district may impose restrictions on the use of surplus lands after being sold;
- establishing that a district is not required to adopt a plumbing code, and clarifying a districts discretionary authority to do so;
- provide that a petition to obtain Road Utility District (RUD) powers be submitted to the TCEQ rather than the Texas Transportation Commission; and
- updates a number of terms and references, including changing references to a plan of reclamation to an engineers report for the purposes of Chapter 57, Water Code.

Effective: Signed by the Governor 6/18/03; effective immediately.

**HB 1567**

Author: Representative West

Sponsor: Senator Bivins

Caption: Relating to the disposal of low-level radioactive waste.

Summary: Repeals Chapter 402, Health and Safety Code (the Texas Low Level Radioactive Waste Disposal Authority Act) and amends Chapter 401 to authorize TCEQ to license a private facility for the commercial disposal of low-level radioactive waste and mixed waste. The bill establishes procedures under which TCEQ would accept and review multiple license applications, prepare a license, and refer one application, after technical review and public comment, to the State Office of Administrative Hearings for a contested case hearing.

Timelines established in the legislation include:

- by January 1, 2004, the TCEQ must publish notice that it is receiving applications for the license;
- from June 30 thru July 29, 2004, the TCEQ will accept applications for a low-level radioactive waste license;
- TCEQ has 6 months to complete the administrative review process and select one applicant for the technical review;
- TCEQ must complete the technical review within 15 months after the completion of the administrative review;
- if the license application is sent to a hearing, the State Office of Administrative

- Hearings (SOAH) has one year to issue a recommendation;
- within 90 days of receipt of SOAH's recommendation, the TCEQ Commission must render a final decision on the license application.

The TCEQ is authorized to license one disposal facility and that facility may accept federal facility waste as well as Texas Compact waste at a separate adjacent facility. The adjacent facility cannot accept federal facility waste until the license holder is ready to receive Texas Compact waste. The bill also provides that the disposal facility may accept mixed waste, that is waste containing both radioactive and hazardous constituents. The legislation provides an initial limit of 3 million cubic yards for the federal facility waste, increasing to 6 million cubic yards after five years.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 1678**

Author: Representative Chisum                      Sponsor: Senator Armbrister

Caption: Relating to the creation, management, and use of the radiation and perpetual care account in the general revenue fund.

Summary: Amends section 401 of the Health & Safety Code to change the Radiation and Perpetual Care Fund to the Radiation and Perpetual Care Account in the general revenue fund and establish provisions for the management and use of the account. The bill requires that fees assessed and financial security required by the Texas Department of Health or the TCEQ under this provision, must be deposited to the credit of the Radiation and Perpetual Care Account in the general revenue fund. The account is used to respond to accidents involving low-level radioactive waste.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 1765**

Author: Representative Wayne Smith                      Sponsor: Senator Jackson

Caption: Relating to requiring financial assurance as a condition of issuing a permit or registration to haulers of certain solid wastes.

Summary: Allows TCEQ to require operators engaged in the collection, transportation or processing of grease or grit trap waste to provide a demonstration of financial assurance as a condition of a permit.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 1791**

Author: Representative Chisum                      Sponsor: Senator Armbrister



Caption: Relating to permits for the commercial composting of certain solid wastes.

Summary: Requires a permit to be issued by TCEQ for the operation of a commercial facility that composts grease trap waste. Facilities currently in operation may continue to operate, provided an application is received by the agency no later than 30 days after the operator receives notification to submit an application for a permit.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 1823**

Author: Representative Chisum                      Sponsor: Senator Armbrister

Caption: Relating to financial assurance for certain solid waste processing facilities.

Summary: Requires TCEQ to adopt rules requiring financial assurance for the closure of recycling, composting, or mulching facilities that store combustible materials outdoors or pose a significant health risk as determined by the Commission.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 1979**

Author: Representative Puente                      Sponsor: Senator Armbrister

Caption: Relating to preventing the discharge of untreated wastewater into waters of the state.

Summary: Requires TCEQ to establish criteria for evaluating sanitary sewer overflows due to blockage by grease and to establish model standards for use by operators of separate sanitary sewer systems designed to prevent discharges of untreated wastewater due to blockages from grease.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

**HB 2250**

Author: Representative Flores                      Sponsor: Senator Lucio

Caption: Relating to the duties of the Rio Grande Watermaster

Summary: Adds Section 11.3271, Water Code, relating to the powers and duties of the Rio Grande Watermaster and the delivery of water down the banks and beds of the Rio Grande. The bill provides that the watermaster shall divide water in the Rio Grande in accordance with adjudicated water rights and regulate diversions and distribution of water in times of shortage. The bill also provides that the watermaster may store in a reservoir and release down the bed and banks of the Rio Grande privately owned groundwater under a permit issued by the Commission. The watermaster shall maintain a central repository that is



wastewater treatment, or solid waste disposal service operated by or for a municipality or county is being integrated into a regional service, the Commission may enter into a compliance agreement with the regional service under which the Commission will not initiate an enforcement action against the regional service for existing or anticipated violations resulting from the operation by the regional service of the service being integrated. A compliance agreement must include provisions necessary to bring the service being integrated into compliance.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 2546**

Author: Representative Bonnen

Sponsor: Senator Janek

Caption: Relating to the land application of certain sludge.

Summary: Imposes new requirements for a permit holder for land application of sludge, including detailed quarterly reporting, annual demonstration of water quality protections, and additional posting and public notice requirements. All permit applicants except political subdivisions are to submit proof of commercial liability and environmental impairment insurance and are required to maintain policies for the term of the permit. A permit holder may only accept Class B sludge that has been transported in a covered container. The bill requires that TCEQ develop a system for electronic submission of information. The bill also prohibits the Commission from issuing a permit for a land application unit that is located both in a county that borders the Gulf of Mexico and is 500 feet or less from surface water or a water well. Operators who hold registrations for Class B sludge application sites may continue operations after September 1, 2003, if a new permit application was filed with the TCEQ on or before September 1, 2002.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

**HB 2554**

Author: Representative Wayne Smith

Sponsor: Senator Jackson

Caption: Relating to the application of new requirements for commercial nonhazardous industrial solid waste landfill facilities to be adopted by the Texas Commission on Environmental Quality.

Summary: Requires TCEQ to adopt rules governing all aspects of the management and operation of a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste for which a permit has not been issued on or before the effective date of the act. Processing of all pending applications for these types of facilities shall be suspended until such rules are adopted. Applicants that have a pending application will be allowed to revise that application to conform to the rules adopted under this bill.



allow for the collection of graywater from all allowable sources, and to design and install a subsurface graywater system around the foundation of new housing in a way that minimizes foundation movement or cracking.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

**HB 2663**

Author: Representative Puente                      Sponsor: Senator Lucio

Caption: Relating to the establishment of quantifiable goals for drought contingency plans.

Summary: Amends Section 11.1272, Water Code, to require that, by May 1, 2005, drought contingency plans of wholesale and retail public water suppliers and irrigation districts include specific, quantified targets for water use reductions to be achieved during periods of water shortages and droughts. The bill also requires the Commission and the Texas Water Development Board to jointly identify target goals and develop best management practices for use by water suppliers during periods of water shortages and drought.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 2887**

Author: Representative Van Arsdale                      Sponsor: Senator Lindsay

Caption: Relating to the applicability of Chapter 49, Texas Water Code Subchapter I, to certain services to comply with federal and state construction stormwater requirements.

Summary: Allows general and special law districts to enter in contracts and obtain services to achieve compliance with storm water regulations without having to follow the competitive bidding process under Subchapter I, Chapter 49, Water Code.

Effective: Signed by the Governor 6/20/03; effective immediately.

**HB 2940**

Author: Representative McReynolds                      Sponsor: Senator Jackson

Caption: Relating to the funding of the administrative costs of the Texas Environmental Education Partnership Fund Board.

Summary: Amends Article 2654-3g of Vernon's Texas Civil Statutes to authorize the Texas Environmental Education Partnership to use up to seven percent of funds it receives from TCEQ supplemental environmental projects (SEPs) to support its administrative costs.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 3024**

Author: Representative Casteel

Sponsor: Senator Armbrister

Caption: Relating to increasing governmental efficiency through the reduction of duplicative reporting and auditing requirements.

Summary: Amends Chapter 783 of the Government Code to require state agencies to conduct a review of reporting requirements imposed on local governments, attempt to simplify the reporting requirements, and eliminate unnecessary, duplicative, or overly burdensome reports. Based on the results of these reviews, agencies must recommend to the legislature statutory changes to minimize cost, duplication, and paperwork and to maximize the efficient and effective use of public funds. The bill further prohibits a state agency from requiring local governments to submit reports if not required by law, rule, or agency performance measures.

Effective: Signed by the Governor 6/20/03; effective immediately.

### **HB 3030**

Author: Representative Van Arsdale

Sponsor: Senator Lindsay

Caption: Relating to public notice of groundwater contamination.

Summary: Adds new Section 26.408, Water Code, to require state agencies that document a case of groundwater contamination that may affect a drinking water well to notify the TCEQ. In addition, TCEQ is required, within 30 days of receiving notice or obtaining independent knowledge of groundwater contamination, to make every effort to notify owners of private drinking water wells that may be affected by the contamination and to notify each applicable groundwater conservation district. The Groundwater Protection Committee is to prescribe the form and content of the notice by rule.

Effective: Signed by the Governor 6/20/03; effective 9/1/03

### **HB 3034**

Author: Representative Ellis

Sponsor: Senator Armbrister

Caption: Relating to the rates of certain retail public utilities.

Summary: Clarifies the intent of certain provisions of Article 10, Senate Bill 2, Acts of the 77th Legislature, which prohibited the consolidation of more than one private water system under a single rate unless certain conditions apply, and set forth provisions regarding factors and costs to be considered in setting rates and the proceedings related to complaints of utility rate changes. HB 3034 clarifies the applicability of the provisions of Article 10 of Senate Bill 2 by providing that the legislation applies to any private water company with a rate case pending before TCEQ in which the Commission had not issued a final order, with one exception.

Effective: Signed by the Governor 6/18/03; effective immediately.

### **HB 3061**

Author: Representative Flores

Sponsor: Senator Hinojosa

Caption: Relating to regulation of the disposal of animal remains.

Summary: Requires that a rule adopted by TCEQ related to the disposal of livestock be developed cooperatively with the Texas Animal Health Commission and receives its approval.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 3152**

Author: Representative Bonnen

Sponsor: Senator Jackson

Caption: Relating to the potability of and requirements for removing contaminants from groundwater.

Summary: Establishes a process under which a municipality may be authorized to (1) designate areas in which the production and use of contaminated groundwater may be controlled in order to limit potential exposure to contaminants and (2) cleanup remedies may be established which are consistent with the limited groundwater use. The bill authorizes a person, including a local government, to make application to TCEQ for approval of the designation of a municipal setting - the area within which a municipality may, under certain conditions, prohibit the use of contaminated groundwater by a person other than a retail public utility. The bill sets forth requirements of an applicant, including notice provisions, procedures for review of an application, and the criteria for approval or denial of the request for designation of a municipal setting. The bill establishes certain

conditions under which TCEQ may not require actions to remediate groundwater within a designated municipal setting, including the condition of availability of alternative sources of water. The bill also specifies the circumstances under which TCEQ may not be precluded from requiring actions to remediate groundwater contamination, including when such action is required by federal law.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **HB 3442**

Author: Representative Pickett

Sponsor: Senator Averitt

Caption: Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities.

Summary: Makes statutory changes required as the result of provisions included in the appropriations bill (HB 1, Article VI) for the natural resource agencies, including TCEQ. Section 6 amends Section 5.701, Water Code, to allow the agency to assess a fee to process an expedited letter designating recommended surface casing intervals for proposed oil and gas wells approved by the Railroad Commission to ensure the protection of usable ground water. It also amends section 26.3571, Water Code, to state that only if sufficient funds are available must the agency, within 90 days, send a fund payment report for reimbursement of clean up costs of a petroleum storage tank site. Section 15 of the bill amends Chapter 670 of the Government Code to establish employee-to-staff ratios for human resources staff of 1 to 85 for the TCEQ. This section also imposes management-to-staff ratios of 1 to 8 by 3/31/04, 1 to 9 by 8/31/05, of 1 to 10 by 8/31/06 and 1 to 11 beginning 9/1/07. This section also allows an agency to offer a one-time recruitment payment (not to exceed \$5,000) to enhance recruitment of competent personnel and a one-time additional compensation payment (also not to exceed \$5,000) to enhance employee retention. Also, Section 1 of the bill provides broad authority to agencies to consolidate reports or publications and to focus on electronic transmission of these publications in order to reduce costs.

Effective: Signed by the Governor 6/10/03; effective 9/1/03 except as provided.

### **SB 216**

Author: Senator Zaffirini

Sponsor: Representative Hardcastle



Caption: Relating to the disposal by a veterinarian of animal remains and associated medical waste.

Summary: Defines “medical waste” for the purposes of Chapter 801 of the Occupations Code and establishes the authority and conditions under which a veterinarian may dispose of medical waste in conjunction with the disposal by burial or burning of animal remains. Burial or burning of the remains and associated waste may occur on property owned by a veterinarian located outside the corporate boundaries of a municipality, or on property within the boundaries of a municipality that was annexed after September 1, 2003.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

### **SB 585**

Author: Senator Duncan

Sponsor: Representative Isett

Caption: Relating to providing money to pay for the remediation, cleanup, and closure of unpermitted solid waste facilities.

Summary: Amends Section 361.014, Health and Safety Code, to provide that TCEQ may use municipal solid waste fee revenues for the remediation, cleanup, and closure of unauthorized recycling sites for which a responsible party is not immediately financially able.

Effective: Signed by the Governor 6/18/03; effective 9/1/03.

### **SB 624**

Author: Senator Lindsay

Sponsor: Representative Callegari

Caption: Relating to the provision of parks and recreational facilities by certain conservation and reclamation districts.

Summary: Allows water districts to support recreational facilities with bond proceeds in certain counties and specifies provisions for bond elections. The maximum tax rate to cover operation and maintenance of recreational facilities is set at 10 cents per \$100 valuation. Districts are prohibited from issuing bonds to construct golf courses. The legislation is effective only if the related constitutional amendment authorized by



Summary: Charges the Texas Water Development Board to establish a water conservation implementation task force with representatives of TCEQ, Texas Department of Agriculture, Texas Parks and Wildlife Department, Texas State Soil and Water Conservation Board, regional water planning groups, federal agencies, municipalities, groundwater conservation districts, river authorities, environmental groups, irrigation districts, institutional water users, higher education and professional organizations focused on water conservation. The task force is to review, evaluate, and recommend optimum levels of water conservation for the State for the purpose of development of a best management practices guide for use by regional water planning groups and political subdivisions responsible for water delivery service.

Effective: Signed by the Governor 5/20/03; effective immediately.

**SB 1152**

Author: Senator Shapleigh

Sponsor: Representative Solomons

Caption: Relating to the use of TexasOnline.

Summary: Amends Section 2054, Government Code, to require that state agencies consider using the TexasOnline project for agency services provided on the Internet, including (1) financial transactions; (2) applications for licenses, permits, registrations, and other related documents from the public; (3) electronic signatures; (4) any other applications that require security. The bill also prohibits agencies from contracting with a third party to develop an e-government project duplicating the functions of the TexasOnline.

Effective: Signed by the Governor 6/20/03; effective immediately.

**SB 1159**

Author: Senator Barrientos

Sponsor: Representative Krusee

Caption: Relating to the regulation of motor vehicle emissions in counties participating in early action compacts.

Summary: Adds new Subchapter H to Chapter 382, Health and Safety Code, to provide a legal framework for areas that are near nonattainment with federal air quality standards to implement early action compacts under which TCEQ and the Department of Public Safety could be requested to implement more flexible vehicle emission inspection programs than currently allowed, but that still meet the air quality goals for the early

action compact areas. A more flexible program could include any component of Texas' current inspection and maintenance program, such as testing exhaust emissions, examining emission control devices and systems, or an alternative testing methodology that meets or exceeds United States Environmental Protection Agency requirements. The requirements may apply to all vehicles 2-24 years old or a subset of that group. Five counties and seven cities in the Austin-San Antonio Metropolitan Statistical Area have signed early action compacts. An early action compact is a legal voluntary emission reduction agreement between federal, state and local officials to attain the federal air quality standard.

Effective: Signed by the Governor 6/10/03; effective immediately.

**SB 1265**

Author: Senator Armbrister

Sponsor: Representative Capello

Caption: Relating to prosecution of environmental crimes.

Summary: Requires that a citation by a local peace officer for violation of any environmental statute within the jurisdiction of TCEQ must be referred to the agency for review before criminal prosecution may proceed. The Commission must review a written report of the alleged violation within 45 days, after which the Commission must notify the peace officer whether administrative or civil penalties are appropriate or whether criminal prosecution is warranted. If the commission determines that administrative or civil penalties are appropriate, a prosecuting attorney may not criminally prosecute an alleged violation. Any recovery of monetary penalties as a result of prosecution is apportioned 70 percent to the state and 30 percent to the local government involved in the prosecution of the case.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

**SB 1272**

Author: Senator Armbrister

Sponsor: Representative Flores

Caption: Relating to the permitting process for the construction of certain concrete plants.

Summary: Authorizes a standard permit for permanent concrete batch plants that meet specific design, construction and operational requirements, including emission control technology requirements, dust control provisions, and distance limitations to adjacent



sewage disposal system only if the installed water softener meets certain requirements. The bill also requires TCEQ to adopt rules for water softeners and reverse osmosis systems.

Effective: Signed by the Governor 6/20/03; effective 9/1/03.

**SB 1639**

Author: Senator Staples

Sponsor: Representative Hope

Caption: Relating to regulation of spacing and production of groundwater from aquifers by a groundwater conservation district.

Summary: Provides additional flexibility in the regulatory authority of a groundwater conservation district by amending Section 36.116, Water Code, to allow a groundwater conservation district to adopt different rules for (1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the district; or (2) each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the district. The district is allowed to select a method for regulating the production of groundwater that is based on hydrogeologic conditions or may limit production based on contiguous surface area.

Adds new Sections 11.0235, 11.0236, and 11.0237, Water Code, to establish and clarify the policy that the waters of the state are held in trust for the public, the right to use state water may be appropriated only as expressly authorized by law, and maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being. The bill further acknowledges that the legislature has authorized TCEQ to provide for freshwater inflows necessary to maintain the viability of the state's bay and estuary systems as part of the TCEQ's process for granting of permits for the use of state waters; that the Legislature has not expressly authorized the grant of a water right exclusively for instream flows dedicated to environmental needs or inflows to the state's bay and estuary systems, or other similar beneficial uses; and that the greater demands being placed on the water resources of the state makes it appropriate to evaluate the process for ensuring that these important priorities are effectively addressed in clear delegations of authority to TCEQ.

The bill establishes the Study Commission on Water for Environmental Flows, provides for the appointment of 15 members (2 members appointed by the Governor, 5 members appointed by the Lt. Governor; 5 members appointed by the Speaker; the presiding officer of the TCEQ, Water Development Board; and Parks and Wildlife, or

their designees), requires TCEQ to provide staff support, and requires the study commission to conduct public hearings to study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows. The commission is to issue a report, not later than December 1, 2004, to the Governor, Lt. Governor, and Speaker summarizing its findings and recommendations. The bill further provides that TCEQ may not issue new water right permits for instream flows dedicated to environmental needs or bay and estuary inflows from the effective date until September 1, 2005.

Effective: Signed by the Governor 6/20/03; effective immediately.

### **SB 1902**

Author: Senator Lucio

Sponsor: Representative Flores

Caption: Relating to the creation, administration, powers, duties, operation, and financing of the Rio Grande Regional Water Authority

Summary: Creates the Rio Grande Regional Water Authority (RGRWA) as a conservation and reclamation district within Cameron, Hidalgo, Starr, Willacy, Webb and Zapata counties. The RGRWA would be governed by a 15member board of directors, with nine members appointed by the Governor and six members appointed one each by the constituent county commissioners courts. The legislation does authorizes the RGRWA to issue bonds, but the Authority would have no taxing authority, and all revenue transactions would be through mutual agreement of participating parties. This legislation also includes most of the provisions of HB 2250. The bill also includes provisions similar to HB 2250 relating to the powers and duties of Rio Grande Watermaster and the delivery of water down the banks and beds of the Rio Grande. The bill applies only to the Rio Grande watermaster and provides that the watermaster shall divide the water in accordance with adjudicated water rights and regulate diversions and distribution of water in times of shortage. The bill also provides that the watermaster may store in a reservoir and release down the bed and banks of the Rio Grande privately owned groundwater under a permit issued by the commission. The watermaster shall maintain a central repository that is available to the public and includes certified copies of all instruments, including deeds, deeds of trust, and liens, that the commission requires to be filed in connection with water rights. A fee may be assessed by the agency when filing certified copies of instruments. The fee revenue will be deposited to the watermaster fund. SB 1902 is differs from HB 2250 in that recording fees are limited to an amount equal to that charged by the counties for similar services, and SB 1902 designates the Watermaster as the official recorder of records, rather than a central

repository for the documents.

Effective: Signed by the Governor 6/18/03; effective 9/1/03.