

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners' Agenda **Date:** August 1, 2016

Thru: John Racanelli
Deputy, Office of Administrative Services

From: Liz Day
Chief Financial Officer

Elizabeth Sifuentez Koch
Director, Budget and Planning Division

Subject: Article IX Section 18.01 Water Resource Management Account 153 Study

Issue:

Status update on, and discussion of the Article IX Section 18.01 Water Resource Management Account 153 Study.

Background and Current Practice:

The Texas Commission on Environmental Quality (TCEQ) was directed by the 84th Legislature to conduct a study of the Water Resource Management account per Article IX Section 18.01(c). Specifically, the study required the agency to complete the following:

- Review the water programs and determine the level of agency workload related to the revenue generated by the associated fee payers and the benefit to the fee payers.
- Using this analysis, the agency should develop a methodology to determine the appropriate level of rates that would generate revenue in proportion to the workload and the fee payer's benefit.
- The methodology based on the findings of the study would be used for future fee rate setting.

Water Study, FY 2016

Water Resource Management Account Fund 0153

Background: The revenue in the Water Resource Management Account (WRM account) is insufficient to support the estimated budget. The obligations to the WRM account have increased with the shift from General Revenue funding water programs, including Dam Safety, Bays and Estuaries, and Total Maximum Daily Loads. These programs do not have a direct fee to generate revenue to support their costs. The agency has been increasing the Consolidated Water Quality (CWQ) fee the last several years to maintain sufficient revenue. However, revenue to the WRM Account is not keeping pace with the increased obligations placed on it.

Government Effectiveness and Efficiency Report (GEER)

Prior to the 84th Legislative Session, the LBB in its GEER report identified concerns of the account and recommendations to address the revenue shortfall. One of the recommendations was to complete a water study, resulting in the provision in Article IX. Most of the discussion in the report focused on the TCEQ's highest revenue generating fees – Consolidated Water Quality Fee (CWQ), the Public Health Service Fee (PHS), and the Water Utility Regulatory Assessment Fee (WRU). These fees comprise 84% of the total collections in the WRM account. The report suggests that there is an inequity between fee payers for each of the fees. The inequities identified in the GEER are described below.

- The CWQ has a statutory cap, currently set at \$115,000. An entity that could pay as high as \$2 million is paying only \$115,000, while an entity not so large is paying near the cap.
- The PHS fee is calculated on the number of connections rather than water consumption. Therefore, industry or a commercial user will pay the same fee as a residential user.
- The WRU fee does not apply to all water and wastewater users and the fee is either 0.5% or 1.0%. This fee also supports appropriations to the Public Utility Commission and the Office of Public Utility Counsel, creating additional obligations to the account.

Article IX Section 18.01 (c)

The Texas Commission on Environmental Quality (TCEQ) was directed by the 84th Legislature to conduct a study of the WRM account per Article IX Section 18.01(c). Specifically, the study required the agency to complete the following:

- Review the water programs and determine the level of agency workload related to the revenue generated by the associated fee payers and the benefit to the fee payers.
- Using this analysis, the agency should develop a methodology to determine the appropriate level of rates that would generate revenue in proportion to the workload and the fee payer's benefit.
- The methodology based on the findings of the study would be used for future fee rate setting.

The 84th legislature also directed the TCEQ to raise the CWQ fee and Public Health Service (PHS) fee to fulfill the agency funding obligations. The PHS fee required rulemaking to raise the fee. The fee was set at a maximum that allows the agency added flexibility for growth should the agency need to raise the fee in the future to support the water programs.

Water Study Workgroup

The agency created a workgroup to perform the study which consisted of representatives from the Office of Water, the Office of Compliance and Enforcement, the Office of Legal Services, and the Office of Administrative Services. The workgroup compiled the costs associated with the water programs and the number of FTEs supporting each program. Staff also identified the source of funding, including Federal Funds, Interagency Contracts, and General Revenue. In addition, the staff listed the Water Resource Management fees that support the programs, and the benefit to the fee payer. Using this data, the workgroup allocated the fees to the appropriate programs to determine which programs have insufficient revenue to support their costs.

Conclusion

The Water Study Workgroup is finalizing its review and recommendations of the potential changes to fees. The final review will be made available to the public and scheduled for discussion and consideration at the XX, 2016 Commissioner Open Meeting.