

Legislative Session Update – Regular Session of the 88th Texas Legislature – Update Prepared by Ken Kramer for the October 19, 2023 Meeting of the Brazos River & Associated Bay & Estuary System Basin & Bay Area Stakeholder Committee (BBASC)

Texas House Water Caucus Formed

A Texas House Water Caucus was created in February 2023 by House Natural Resources Chairman Tracy King with 38 State Representatives as the initial members of the Caucus, a number which grew to 73 (virtually half of the members of the House of Representatives). The Caucus is a bipartisan group composed of both Democrats and Republicans who seek to become better informed on water issues facing the state and their respective districts. The Texas Water Foundation is providing logistical support for the Caucus, including presentations on various water topics. The Caucus potentially provides an opportunity to educate legislators on environmental flow and other water topics.

Major Texas Water Project Funding Legislation Enacted, Subject to Voter Approval

With bipartisan sponsorship and support, the 88th Texas Legislature passed a proposed state constitutional amendment ([SJR 75](#)) to establish a new Texas Water Fund and provisionally appropriated \$1 billion out of the state's surplus as an initial investment in the Fund. The creation of the Fund is subject to voter approval in this year's November election. The proposed Fund will be on the ballot as Proposition 6, and early voting on this and other propositions begins October 23, with November 7 as Election Day. The Legislature also passed [SB 28](#), which is the "enabling legislation" for the Fund, spelling out how money in the Fund may be used. More detail on the proposed Fund may be found at the following links, which go to Prop 6 education pieces produced respectively by the Texas Water Foundation, Texas Water Development Board, and Texas 2036:

<https://static1.squarespace.com/static/5d88b5ada6a5f409ddb3da56/t/64e55427b946601f10e332ee/1692750888065/Texas+Water+Fund+Final.pdf>

https://www.twdb.texas.gov/home/tabs/doc/hot/SB_28-TexasWaterFund-FAQ.pdf?d=1117879

<https://texas2036.org/posts/how-the-proposed-new-texas-water-fund-works/>

Enhancements to the Environmental Flow Standard Setting Process Included in TCEQ Continuation Legislation (SB 1397)

The only specific legislative action directly affecting the environmental flow standard setting process and review of the standards came in provisions on pages 12-15x in the broader legislation that continued in existence the Texas Commission on Environmental Quality (TCEQ). That legislation – [SB 1397](#) – was the outgrowth of the sunset review of TCEQ conducted during the interim prior to the session by the Texas Sunset Advisory Commission, which examines state agencies at least every 12 years to see if the agency needs to be continued and if any changes need to be made in terms of its functions and the implementation of its programs. The changes related to the environmental flow standards process stemmed from public input about the need to take steps to revitalize the program.

As noted in a summary of the TCEQ bill prepared by Sarah Kinkle with the Texas Water Conservation Association (TWCA): “SB 1397 requires periodic review of environmental flow standards by the Environmental Flows Advisory Group (EFAG), specifies the criteria for these reviews, and requires a biennial statewide workplan to prioritize and standardize review of environmental flow standards. The bill requires TCEQ to submit a biennial report to the EFAG and removes the abolishment date for EFAG and the Science Advisory Committee.” Of course, neither the EFAG nor the Science Advisory Committee have met for years, and it remains to be seen whether these new legal requirements re-energize these entities. For the current members of the EFAG see:

https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/eflows/group.html. Note that the 88th Legislature did not appropriate any specific additional funds for the environmental flow standards program.

Wide Array of Other Water-Related Legislation Enacted

The 88th Texas Legislature enacted a significant number of other bills dealing with groundwater issues, water quality, state agency and water district operations. A very thorough discussion of all of this legislation may be found in the biennial water legislation summary recently published by the online Texas Water Journal. This summary was prepared by representatives from seven organizations who lobby and/or monitor water legislation. The complete summary may be found at: <https://twj-ojs-tdl.tdl.org/twj/article/view/7167/6505>.