

May 2017 Austin Report

Time is short and nerves are frayed in the Legislature, which must adjourn on May 29th. The biggest challenge will be the Legislature's fulfilling its constitutional duty of passing a two-year budget. There is a \$2.5 billion shortfall that the House wants to cover with Rainy Day Funds, while the Senate wants to defer transportation revenue payments until the next budget cycle. A conference committee has been appointed to iron out these differences. South Texas is represented on this committee by Senator Chuy Hinojosa and Rep. Oscar Longoria, both from the Valley.

The legislation of greatest specific interest to STPRA's members this session has been related to reforming eminent domain procedures. We have joined allied organizations as part of the Texans for Property Rights (TFPR) coalition, which has been countered by the Coalition for Critical Infrastructure (CCI), whose membership is dominated by entities with condemnation authority. Most of the attention and debate on eminent domain reform has centered on SB 740 by Sen. Kolkhorst and HB 2684 by Rep. Burns, which are omnibus bills written to address several major issues.

Lead negotiators for TFPR have worked for many weeks to try to get CCI to agree to compromise language. After facing repeated frustration over back-tracking and a lack of commitment on the other side and a dearth of legislative leadership, our negotiators, with our support, notified legislators this week of their desire to cease negotiations and oppose the bills as currently written.

Of particular concern was a provision in Kolkhorst's bill that capped compensation at 150 percent of the Central Appraisal District's valuation (prorated). That provision is unacceptable, not only because those appraisals are rarely market-based, but mainly because that amount would rarely compensate for the reduced value of the balance of the property, or for the time and inconvenience of having to contend with construction and maintenance inconveniences and dangers. Nevertheless, Kolkhorst's bill passed the full Senate yesterday, though it apparently has no future in the House. Hopefully, at least three bills by Senator Schwertner dealing with eminent domain disclosures and buy-back provisions will ultimately pass.

Here is an update on some water bills that appear to have a chance of passing this session:

HB 31 by Larson- This bill states that groundwater conservation districts (GCDs) can't change their rules once a permit application has been filed, can't have a separate permit for export, and limits circumstances for declaring a moratorium on issuing permits. (Sent to Senate 4-26)

HB 352 by Murr establishes a process that state agencies must go through before declaring a watercourse "navigable". Among other things, the process calls for a public hearing and allows landowners standing to challenge rulings in district court. (Passed House committee 4-27)

HB 2377 by Larson allows someone with a legally defined interest (landowner in the district) to petition a GCD to establish rules for brackish groundwater production. Permits must have a minimum term of 30 years and desired future conditions (DFCs) do not apply. (State calendar 5-3)

HB 2378 by Larson makes transfer permit renewals automatic, to coincide with production permit renewals. (Received in Senate 5-1)

HB 2885 by Larson allows treated brackish water return flows to be put in a watercourse or another river basin and reclaimed. (Left pending in committee 4-27)

HB 2894 by Lucio III, SB 1430 by Perry- Current water rights holders are allowed to amend their rights expeditiously to sell them if they have replaced that water with desalinated seawater. (Moving in both chambers)

SB 862 by Perry calls for “loser pays” for legal fees from lawsuits between GCDs and landowners. Currently, only the landowner has to pay for the GCD’s legal fees if he or she is the loser and not vice-versa. (Passed Senate 5-2)

SB 1009 by Perry specifies the definition of “administrative completeness” for permit applications and prohibits GCDs from adding requirements after the fact. (Passed Senate, House hearing 5-3)

HB 2306 by Rep. Guillen would reimburse law enforcement agencies that use auction proceeds from seized property to compensate landowners for damages suffered from bailouts. This bill will advance to the House floor this week.