

Groundwater Conservation Districts

Issue

Ensure effective management of regional groundwater resources through locally-controlled groundwater conservation districts.

Background

The State of Texas covers 23 aquifers that underlie approximately three-quarters of the state. Groundwater from Texas aquifers is used for agricultural and non-agricultural irrigation, municipal use, manufacturing and industrial use, livestock production, and a number of other beneficial uses. Pumping of water from many aquifers in Texas has resulted in a significant lowering of local water tables.

Groundwater law in Texas originally derived from English law where landowners were given the "right of capture" of groundwater beneath their property. This meant that groundwater was not regulated or controlled by the state, and landowners could pump all the groundwater they could put to a beneficial use without any legal limit or liability to neighboring landowners. In 1917, a constitutional amendment was approved authorizing the creation of locally-controlled special districts to manage natural resources, including groundwater. Shortly thereafter, the legislature began creating groundwater conservation districts (GCDs) governed by local boards and charged these entities with the responsibility for managing groundwater resources within their area.

Locally-controlled GCDs are authorized with powers and duties outlined in Chapter 36 of the Water Code that enable them to manage groundwater resources. Three primary GCD authorities include permitting water wells, developing a comprehensive management plan, and adopting the necessary rules to implement the management plan. As of May 2008, 145 of Texas' 254 counties are fully or partially within a GCD.

Across the state, GCDs implement various regulatory methodologies for groundwater management. Methodologies implemented by various districts include rule of capture (no production limits), correlative rights (limits proportional to the landowner's share of land), reasonable use (limits based upon proportionate reduction, rate of withdrawal or preventing unreasonable drawdown), and prior appropriation (limits based upon "first in time, first in right" and historical use). The specific regulatory method chosen by a local GCD is highly dependent on a variety of local conditions and is adopted and implemented with direct input from the citizens being regulated because of the local nature of the GCD.

Periodically there are controversies or challenges to methodologies adopted by some GCDs. However, the rationale for local control of GCDs is based upon diverse climate conditions, water use patterns, population projections, and aquifer characteristics across the state. It would be difficult to implement and administer uniform regulations statewide. Occasional controversies that may arise in a certain local area can be addressed through judicial or legislative review and do not justify making wholesale changes to the current method of local control of groundwater which has proven to be extremely effective across the state. Local control has been particularly

beneficial in the Houston area where the difficult challenge of subsidence has been effectively addressed through the local management efforts of the subsidence districts.

Legislative Action Needed

Support for legislation that preserves local control of groundwater through GCDs. Opposition to legislation that limits the regulatory authority of local GCDs or changes the underlying legal principle (rule of capture) upon which current groundwater management is based.

Fiscal Impact

No impact on the state's General Revenue fund.