INTERIM REPORT

Sixty-Fifth Legislative Session

Committee on

Natural Resources

Texas House of Representatives
The Honorable Bill Clayton  
Speaker of the House of Representatives  

Members, Texas House of Representatives  
65th Texas Legislature  

Dear Mr. Speaker and Members:  

Transmitted herewith is the Report of the Natural Resources Committee which is to be submitted to the 65th Texas Legislature.

Sincerely,

Tom Craddick,  
Chairman
The following Report has been approved by the members of the Natural Resources Committee listed below:

Representative Tom Craddick, Chairman
Representative Tony Dramberger, Vice Chairman
Representative Wayne Peveto, Vice Chairman-Appropriations
Representative Bob Close
Representative Tom Massey
Representative Greg Montoya
Representative Bob Simpson
Representative Chester Slay
Representative Perry Tanner
Representative Ed Watson
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INTRODUCTION AND COMMITTEE RECOMMENDATIONS

At the commencement of the 64th Legislature, the Honorable Bill Clayton, Speaker of the Texas House of Representatives, appointed the House Committee on Natural Resources

The Committee membership includes eleven members of the House of Representatives as follows: Tom Craddick of Midland, Chairman; Tony Dramberger of San Antonio, Vice Chairman; Wayne Peveto of Orange, Vice Chairman-Appropriations; Bob Close of Perryton, Samuel Hudson of Dallas, Tom Massey of San Angelo, Greg Montoya of Elsa, Bob Simpson of Amarillo, Chester Slay of Nederland, Perry Tanner of Livingston, and Ed Watson of Deerpark.

The Committee, during the interim, was assigned the following studies:

I. Resource Depletion and the Need for Water Within the State.

II. Underground Water Laws as They Relate to Withdrawal and Sale.

III. Water Rights Adjudication Act Procedures.

IV. The Need for Revision in the Laws Governing the Following Kinds of Local Districts:
A. Groundwater Districts  
B. Levee Improvement Districts  
C. Water Control and Improvement Districts  
D. Irrigation Districts  

V. San Antonio Water Supply Problems.  

VI. The Possibility of Amalgamating the Water Agencies.  

In order to effectively and efficiently study the above problems, subcommittees were formed to receive testimony and make recommendations to be considered by the full committee. The following recommendations have been approved by the Natural Resources Committee and are recommended by the Committee to the House of Representatives 65th Texas Legislature.  

RECOMMENDATIONS  
The Natural Resource Committee recommends that:  

I. One of the six members of the Texas Water Development Board, or successor agency, be a person who has been actively engaged in the protection of the environment through organizational work. This member would take the place of one of the members at large on the Board. Geographic considerations and experience requirements that apply to all Board members would also apply to the environmentalist member.  

II. Section 52.105 of the Texas Water Code be amended to permit groundwater districts to purchase, sell and distribute surface and groundwater.  

III. Chapter 52, Texas Water Code, governing groundwater districts, should have its own Administration and
Procedural Provisions and be independent of the provisions contained in Chapter 51 of the Texas Water Code, which govern Water Control and Improvement Districts.

IV. Section 52.103 should be amended to specifically provide for reasonable fines for the wilfull violation of a groundwater district's rules or regulations.

V. Section 52.140 of the Texas Water Code should be amended to provide for Water Control and Improvement Districts receiving a bid bond or cashier's check in the amount of 2% of a bid to accompany a contractor's bid on construction work. Subchapter (f) of Section 51.140 should be repealed.

VI. A separate chapter governing Irrigation Districts should be enacted in the Water Code, substantially in the form proposed as H.B. 1668 as introduced in the 64th Texas Legislature, but without a subchapter provided for weighted-voting.

VII. The Texas Water Development Board, Texas Water Quality Board and the Texas Water Rights Commission should be consolidated as recommended in the Committee Report.

The Committee's Report including findings, conclusions, and recommendations follow.
I.
RESOURCE DEPLETION AND
TEXAS WATER NEEDS

The Committee studied in conjunction the problems of resource depletion within the State and the State's needs for water. While the State's demand for water is projected to increase significantly in the future, the State's water supplies may be insufficient to meet this demand.

A. RESOURCE DEPLETION

Texas has a heavy dependence on groundwater. About 75% of the water used within the State is groundwater. More than 1,000 municipalities and numerous industries use and are dependent upon groundwater. But the greatest dependence is by Texas agriculture for the irrigation of crops.

More than 50% of the State's surface covers groundwater aquifers of major or minor character. Approximately 4,295,700 acre-feet of groundwater is available from the major and minor aquifers of the State every year without reducing the amount of water in storage. Groundwater quality is a major constraint on the development and utilization of groundwater. Dissolved solid contents or the presence of certain chemicals within the groundwater may render the water unsuitable for particular uses.

While this report cannot discuss all the water supply problems of the State, the problems of the following areas were raised in subcommittee hearings:

1. El Paso

The El Paso area has a very arid climate having rainfall of about 8 inches per year. The El Paso-Juarez area had a population
of about 816,000 in 1970 (El Paso - 322,000; Juarez - 438,000). By the year 2000, the area is expected to have a population of 1.8 million residents (El Paso - 607,000; Juarez - 1.1 million). The area's economy is dependent on governmental activity, local and international trade, manufacturing industries, and agriculture with cotton, alfalfa and grain being the three primary crops.

The area is heavily dependent on groundwater from the Hueco Bolson Deposits and the Rio Grande alluvium as well as the Rio Grande River. Most of the groundwater is saline with the salinity ranging from slightly saline\(^1\) to brine.\(^2\)

The City currently obtains its water supply as follows:

1. A main groundwater supply from about 80 wells in the Hueco Bolson Deposits;
2. A secondary groundwater supply produced from 32 wells in the Rio Grande alluvium and La Mesa Bolson Deposits;
3. An annual delivery of Rio Grande and Franklin canal water through arrangements with the Rio Grande Project. This delivery of surface water provides only about 10-15% of the City's total water supply.

Due to long-term drought and a demand for water which has increased several hundred percent since 1945, shortages in surface water deliveries and degradation of surface water quality have resulted. Additionally, the discharge of wells over the Hueco Bolson Deposits is substantially greater than (estimated to be 10 times) the annual recharge of the deposits, resulting in the depletion of groundwater storage or "mining".

The Committee concluded that El Paso will probably not be able to maintain its good economic climate and growth without

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1 1000-3000 milligrams of dissolved solids/liter
2 More than 35,000 milligrams of dissolved solids/liter
artificial recharge of the Hueco Bolson Deposits by one or more of the following: (1) surplus water from New Mexico; (2) surface water from an area outside of El Paso; (3) properly treated excess return flows of the Rio Grande as well as municipal and industrial return flows.

2. High Plains

The High Plains portion of the State that overlaps into New Mexico and Oklahoma is the largest irrigable land mass on earth. About 65% of the total irrigated acreage in Texas is located on the High Plains. The region since 1921 has also accounted for one-third of the crude oil produced in our State. The High Plains has a significant impact on the Texas economy.

The Ogallala Aquifer is the primary source of water for the region because average rainfall is less than 20 inches per year. Groundwater is used for irrigation farming and for secondary oil recovery as primary recovery methods have already peaked. The Aquifer receives little in the way of natural recharge, and pumping in the area results in the mining of water each year. Further, the groundwater is distributed unevenly in the aquifer due to differing geologic formations. In some areas of pumping, there has been a significant and serious depletion of groundwater, while in other areas, although subject to full development, water appears to be available in adequate quantities for thirty to fifty years.

Food and fiber are growing ever important to the United States as commodities for trade in the World Market while this country's supply of other natural resources is dwindling and must be supplemented by foreign imports. Additionally, the diminution of the nation's
energy supplies places a greater value on crude oil and the secondary recovery methods necessary for producing, after primary methods are no longer effective.

At the present time, the High Plains area of Texas has a significant impact on the Texas economy and the United States economy. While current groundwater supplies are conserved by local groundwater districts and conservation practices (such as tail-water pits), maintenance of future production in the High Plains at present levels is dependent, ultimately, on the importation of water from sources outside the High Plains to the area.

3. San Antonio - Edwards Aquifer

The City of San Antonio and Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties are all dependent on the Edwards Aquifer for their water supplies. The interdependence of these areas on the Edwards and a description of the local water supply problems may be found in the Report contained herein concerning San Antonio Water Supply. (Article V of this Report)

4. Other Areas

The Committee is also aware that water shortages may be found in the Lower Rio Grande Valley, Trans-Pecos Area, the Winter Garden and coastal areas of the State. Some or all of these areas may ultimately face dry-land farming as water supplies become depleted.

Additionally, Texas bays and estuaries, which form a 400 mile arc along the Texas coast from Orange to Brownsville, are dependent on inflows of fresh water from the rivers of the State as well as from return flows from industry, cities and irrigation.
The past has demonstrated that extreme changes in the environment of the bays and estuaries can result in severe ecological damage. Salinity control and ecological stabilization may be accomplished by the management (controlled releases) of fresh water inflows into our bays and estuaries.
B. TEXAS WATER NEEDS

1. The Texas Water Plan

Texas has become the third most populous state in the nation; its population is increasing, its economy is growing and personal income is rising. To maintain the growth, the State will have to manage its water resources efficiently. In 1968, the Texas Water Plan was adopted as a flexible guide for water development in Texas. In the original Texas Water Plan, the Texas Water Development Board concluded that Texas could not sustain the growth of its economy and population by merely redistributing its water.

The Plan called for the importation of surplus Mississippi River Water to the State. In August, 1969, a 2.1 billion dollar Texas Water Development Bond issue was narrowly defeated by the State's electorate. In 1973, a study of the importation project was completed by the Bureau of Reclamation, the Mississippi River Commission and the Corps of Engineers. The study concluded as follows:

1. A supplemental water supply or better utilization of existing supplies will be required to sustain the present form of agricultural economy in the High Plains area of Texas and eastern New Mexico.

2. Excess water may be available in the lower Mississippi River system for export to the High Plains region during certain months of most years.

3. Facilities could be constructed to deliver an annual average of 5.8 million acre-feet of water to the High Plains at an estimated construction cost of $20.5 billion, including the cost of electrical power facilities.

4. The import alternative would have considerable environmental impact and would need substantial additional analysis.

5. The importation alternative cannot be economically or financially justified using present procedures.
Although some claim that incorrect criteria and approaches were utilized when the study determined the cost/benefit ratios, it appears to be generally conceded that economic considerations prevent importation of water to the State from the mouth of the Mississippi.

As this report is being written, the Texas Water Plan is being revised and amended by the Texas Water Development Board. To a great extent the agricultural future of our State depends on the Board's developing a Plan providing for an importation project that is financially feasible.
2. Alternative Sources for Fresh Water

(a) DESALTING

Desalting is a technological development that may ultimately result in greater supplies of usable water for Texas. In 1966, the Texas Water Development Board and the Office of Saline Water engaged in a study of the potential of desalting for all Texas cities of 1,000 or more population. Since then more than $450,000 has been expended on desalting studies.

Groundwater, surface water, sea water or recycled wastewater may serve as the water source ("feed water") for desalting. Desalting plants are ordinarily installed near the source of feedwater. For the desalting of municipal wastewater, the plant may be incorporated into existing municipal water systems.

Port Mansfield, Dell City, Paradise Isle Subdivision in Cameron County, and Diamond Head Subdivision near Sierra Blanca, are Texas municipalities with desalting plants. Some problems with desalting have developed. At Dell City, the drawdown of well water has increased the salinity to an unacceptable level. Operational problems have been encountered at Port Mansfield. A plant planned with federal assistance for Brownsville has been abandoned. A reverse osmosis desalting plant was not taken over by the City of Plains and a test facility established at Freeport is largely inactive.

Presently, desalting contributes little to supplying Texas water needs. While the economics of desalting, with improved technology and larger scaled plants, are improving and hold promise for some water short areas of the state, generally
desalting is too expensive for most areas to consider and increasing energy costs for desalting are continuing to offset technological advances.
(b) WEATHER MODIFICATION

Interest in weather modification grows as Texas searches for additional water supplies. In 1967, the Texas Weather Modification Act (now Chapter Fourteen of the Texas Water Code) was enacted. Under the act, the Texas Water Development Board may, among other things, license weather modifiers and permit specific projects. Since the Texas Weather Modification Act's enactment, 7 permits have been issued by the Board.

At this point in time, the art or science of weather modification is not in an advanced state. Hopefully, at some time in the future, it will contribute significantly to satisfying Texas' water needs. The Committee believes that continuing research in weather modification is worthwhile.
3. CONSERVATION

No discussion of water supplies for future needs would be complete without a discussion of conservation. There is little point in planning reservoirs and committing millions of dollars for their construction if great quantities of water are being wasted.

A number of areas within our state will probably be facing water shortages within the next few decades. Additionally, the cost of available water may well become more expensive. Programs and policies directed toward water conservation and public education should be commenced, particularly for the most water short areas of our state.

4. ENVIRONMENTAL CONSIDERATIONS

The Committee believes that the environmental impact of all water projects should be determined and evaluated before project implementation. Environmental costs should be computed into a project's cost/benefit ratio before economic feasibility is determined.

The Committee has noted the concern the Texas Water Development Board has had in its planning for certain environmental areas, particularly its concern for bays and estuaries. However, the Committee also notes that various environmental organizations continue to oppose the Texas Water Plan in general.

All Texans must realize that our state would not be a good place in which to work and live if its economic growth were substantially curtailed or its environment substantially degraded. Implementation of all or portions of the Texas Water Plan will
result in some environmental degradation in some areas; in other areas, the environment may well be enhanced by a project. Where the environmental cost, together with other project costs, becomes too high, a project should not be built. On the other hand, the fact that some environmental degradation may occur, is not sufficient reason, when taken alone, to prevent a water project's construction.

While the Texas Water Development Board's personnel and certain environmental organizations seem to have been at irreconcilable odds in the past, with many proposed projects meeting with stiff environmentalist resistance, some of the representatives of environmental groups expressed a willingness to work with the Texas Water Development Board and to accept reasonable planning and project implementation for the state's future water needs. Similarly, personnel from the Texas Water Development Board have expressed a willingness to work with and consult with environmentalist groups. These environmentalists and the Board apparently were in agreement that Texas' water needs must be planned for and satisfied by construction of reasonable water projects and at the same time protection for the environment must be afforded when reasonably possible.

With the foregoing in mind, the Committee recommends a change in the membership of the Texas Water Development Board. Currently, the Board has six citizen members appointed by the Governor with the advice and consent of the Senate. The fields of engineering, finance, law and farming (or ranching) are to be represented by members of the Board. Two members from the
public at large are to be on the Board as well. Each member must be from a different section of the state and must have at least 10 years of successful business or professional experience.

The Committee recommends the appointment of a person who has been actively engaged in the protection of the environment through organizational work to be substituted on the Board for one of the members appointed from the public at large. The geographic consideration and experience requirements would apply to the environmentalist member of the Board. In the event the Legislature consolidates the Texas Water Development Board with one or more existing agencies, the Committee recommends that the surviving agency contain an environmentalist as a Board member.
II. TEXAS LAW GOVERNING WITHDRAWAL AND SALE OF GROUNDWATER

The rights to groundwater in Texas and Texas groundwater law are found primarily in Texas case law. The Committee on Water found that with respect to the rights to most groundwater, Texas, through its case law, has adopted the English or Absolute Doctrine of Groundwater law. Generally this doctrine provides that the owner of the land owns the percolating water underneath and has an absolute right to withdraw the water.

In 1904, the Texas Supreme Court made it clear that Texas had adopted the Absolute Doctrine in Houston T.C. Ry. Co. v. East, 98 Tex 146, 81 S.W. 279 (1904). The doctrine was reaffirmed in 1955, by the Texas Supreme Court in City of Corpus Christi v. City of Pleasanton, 154 Tex 289, 276 S.W.2d 798 (1955), wherein the Court upheld the surface owner's right not only to withdraw water but also to sell it for beneficial use 118 miles away. The fact that large quantities of water (up to 74%) would be lost to evaporation during transit was not considered wasteful by the Court. Further, the landowner can not only sell groundwater, but also sell the right to groundwater. Texas Co. v. Burkett, 117 Tex 16, 296 S.W. 276 (1927).

In some areas of Texas groundwater districts have been formed to regulate pumping and withdrawal within certain aquifers and their geologic subdivisions. These districts have been created by

1. Section 52.002, Texas Water Code, however, does recognize the right of the landowner to underground water.

2. The surface owner has no absolute right, however, in those instances where the groundwater is part of a well-defined subterranean stream.
statute. Three such districts exist in the northern and panhandle regions of our state. One exists over the Edwards Aquifer in the San Antonio and surrounding area. A fifth active district encompasses Harris and Galveston Counties and has a primary purpose of preventing subsidence.

The Subcommittee found that the underground water districts are performing a valuable conservation service through their tailwater projects and pumping regulations.

As demand for water steadily increases in our state some have questioned whether or not the right to groundwater should be treated in the same manner as surface water. The Committee believes this step might be unconstitutional and would certainly result in many legal complications. The Committee further found that effective conservation of groundwater can result through local and, perhaps at some time in the future, state regulation, to prevent waste.
III.
WATER RIGHTS ADJUDICATION ACT

In 1967, the Texas Water Rights Adjudication Act was passed. At that time the Texas Water Rights Commission was charged with the responsibility of issuing permits for water rights without really knowing all the claims that existed to water in the river basins and without knowing whether any unclaimed water existed in a river basin.

During the 1950's and 1960's, a suit was filed to determine the water rights in the lower Rio Grande Valley. Approximately 3,000 litigants were involved and the suit lasted for approximately 15 years. It has been estimated that both the state and the parties involved spent in excess of $10 million in this suit. The suit demonstrated the difficulty of attempting to adjudicate water rights in a river basin within the judiciary system. Accordingly, the Texas Water Rights Act was passed in 1967, providing for the recording of water rights, the adjudication of water rights and, ultimately, the management of water rights within a river basin.

At this time it is estimated that the Texas Water Rights Commission, which is charged with administering the Water Rights Adjudication Program has completed in excess of 50% of the work involved in adjudicating the streams in our state. Final Determinations of the rights to water in river basins are submitted by the Commission to a district court and to this date, adjudications are pending in district courts for the Middle Rio Grande, the Cibolo Creek Basin, the Upper Rio Grande Basin, the Barrillo Creek Watershed, the Upper Colorado River and Pecan Bayou.
The Committee noted that for several years there seemed to be no court action on the Texas Water Rights Commission Final Determinations. For the most part this delay seems to stem not from inaction by the Texas Water Rights Commission but from a turnover in the Attorney General's staff which is charged with litigating the adjudication in court.

Additionally, the Committee has noted that no recommendations have been submitted for the improvement of the judicial proceeding once the adjudication is filed in district court. Accordingly, this Committee makes no recommendations in this regard.
IV. LOCAL DISTRICTS

A. GROUNDWATER DISTRICTS

There are five active Groundwater Districts in the state: High Plains Underground Water Conservation District No. 1, North Plains Water Conservation District, Panhandle Ground Water Conservation District, Edwards Underground Water District and the Harris-Galveston Coastal Subsidence District. The first three have been created under and operate pursuant to the laws codified under Chapter 52 of the Texas Water Code. The latter two operate under special statutes.

The provisions of Chapter 52 authorize Groundwater Districts to adopt rules for the conserving, preserving, protecting, recharging and prevention of waste of the underground water and to enforce these rules in the courts if necessary.

Additionally, these districts are authorized to:

1. determine the quality and quantity of water being used from the underground reservoir (aquifer) and the feasibility of recharge;
2. develop comprehensive plans for the most efficient use of the water;
3. require driller's logs to be filed with the district and records kept on all wells drilled;
4. require permits before a well producing more than 100,000 gallons/day is drilled;
5. space wells and regulate production to prevent interference between wells and regulate production to prevent interference between wells and excessive depletion of the water table;
6. prevent waste and pollution;
7. see that all abandoned wells are capped or plugged.

Present law prevents Groundwater Districts from buying, selling or transporting water.¹ The Committee heard testimony from representatives of the three Groundwater Districts governed by Chapter 52 of the Texas Water Code. All were located in north central Texas or in the panhandle region of our State. All three representatives urged the Committee to recommend that the powers of groundwater districts be expanded to include the authority to purchase, sell and transport water.

The Committee found that recharge of the local aquifer was often possible and of vital concern to the local groundwater districts. But present laws prevent the procurement of water for recharge purposes. Additionally, the areas over the Ogallala Aquifer are vital to the nation for the purpose of producing food and fiber. Groundwater districts may well serve as distributors of water for the following reasons:

1. Groundwater districts cover much larger geographical areas than other local districts;
2. Groundwater districts have a history of conservation management;
3. Groundwater districts have on hand a great deal of data about existing water supplies for the area and would be able to manage surface water distribution in conjunction with groundwater supplies;

¹ Section 52.105 of the Texas Water Code.
4. Aquifers which lie below the groundwater districts are the logical places for storage of groundwater supplies. Without the authority to distribute, sell and purchase water, the districts could not serve in the distributor role.

RECOMMENDATIONS: Section 52.105 of the Water Code be amended to permit groundwater districts to purchase, sell and distribute surface and groundwater.
The committee further found that Groundwater Districts pursuant to Section 52.051 must comply with the administrative and procedural provisions of Chapter 51 of the Water Code which governs Water Control & Improvement Districts. Certain provisions in Chapter 51 were found objectionable to groundwater districts including:

1. Limitation to a 5-member board of directors (Sec 51.071). Most groundwater districts cover vast areas and should have a minimum of 5, but perhaps more, directors for full geographical representation.

2. Specified meeting dates (Sec 51.095). Such dates are often not convenient for groundwater district board members, who many times must travel substantial distances to attend board meetings.

3. Staggered two-year terms (Sec. 51.073). The continuity of four-year staggered terms (coupled possibly with a two-term limitation for any one person) would be more desirable for groundwater districts.

4. Under Sections 51.222 and 51.075, notice of election, containing the names of candidates for the board of directors has to be published before the last day has elapsed for a candidate for director to submit his application to get on the ballot.

RECOMMENDATION: Chapter 52 should have its own Administrative and Procedural Provisions and be independent of the provisions contained in Chapter 51 of the Texas Water Code.
The Committee found that Section 52.103 does not specifically provide for the district's adoption of fines for the wilfull violation of their rules and regulations, when such fines, if reasonable, would aid the districts in the enforcement of their rules and regulations.

RECOMMENDATION: Section 52.103 should be amended to specify "reasonable fines" for wilfull violation of a district's rules or regulations.

Without making a recommendation, the Committee urges that future consideration be given to the following as possible legislation so that conservation may be achieved:

1. Require permits for all wells within the district and eliminate the exemption for wells producing 100,000 gallons or less per day as provided by §52.118.

2. Require the entire area over a delineated aquifer to participate as part of the groundwater district if the majority of voters approve the creation of the district; eliminate the provision now in the law permitting segregated irrigation areas which vote against creation to be excluded (Section 52.026). Otherwise, persons outside the groundwater district but within the same subdivision of an aquifer may defeat the conservation measures of the district.
Levee Improvement Districts are governed by the provisions of Chapter 57 of the Texas Water Code. These Districts are located throughout the state. Their primary purpose, in most instances, is to provide their respective areas with adequate drainage.

During the 63rd Legislature, several reform measures were passed and signed into law by the Governor which intended to cure some of the ills found in urban water districts. These reforms were many times directed at irresponsible developers and to make the districts more responsive to its residents. These reforms were enacted into Chapters 51, 53 and 54 of the Texas Water Code, providing for Water Control & Improvement Districts, Fresh Water Supply Districts and Municipal Utility Districts. Many other districts were affected with the enactment of the reforms into Chapter 50 of the Water Code applying generally to all districts providing water or sewer services to household users.

During the 64th Session, S.B. 835 was introduced by Senator Gammage. Generally, it was the intent of this bill to extend the reforms of the 63rd Legislative Session to Levee Improvement Districts. The bill was referred to the Committee on Natural Resources which, in turn, failed to report it out favorably.

Testimony before the Committee indicated that some amendments to S.B. 835 were necessary. Persons interested in the measure were asked to submit a draft that included these amendments for the Committee's consideration. As of this writing, the Committee has not received the draft and has, at the time of this report,
no recommendations regarding any changes for the provisions of Chapter 57 of governing Levee Improvement Districts.
C. WATER CONTROL & IMPROVEMENT DISTRICTS

The Committee considered H.B. 1600 introduced in the 64th Regular Legislative Session by Representative Tanner, which would amend Chapter 51 governing Water Control & Improvement Districts. Currently Section 51.140, Texas Water Code, authorizes a Water Control & Improvement District to receive only a certified check for one percent of the total construction project when taking a bid from a contractor. The committee found that it was the custom, among other types of water districts, to accept bid bonds or cashier checks and that 2% of the total contract price would better secure the bid. Additionally, subsection (f) of Section 51.140 provides that a contract is not valid if the total sum required to complete the proposed works of the plans adopted by the district exceeds the total sum estimated by the district's engineer, in his plans adopted by the district prior to the election for the authorization of bonds, to be sufficient to pay the completed cost of all elements of work. The Committee found that cost overruns are now incurred in almost all projects and that the validity of many construction contracts would be questionable if subsection (f) were not repealed.

RECOMMENDATION: Amend Section 51.140 of the Texas Water Code by providing for a bid bond or cashier's check in the amount of 2% of the bid to accompany a contractor's bid on construction work. Repeal subschapter (f) of Section 51.140.
D. IRRIGATION DISTRICTS

In the early 1900's many water districts, called "irrigation districts," were created for the purpose of providing water for irrigation to farmers and rural areas. Some districts were created by special legislation. Others were created under the general laws governing water improvement districts (Chapter 55, Texas Water Code). Many have converted to operation under Chapter 51 of the Water Code governing water control and improvement districts, although water control and improvement districts are principally designed for furnishing water for domestic purposes in urban areas.

With the passage of the Texas Water Code, many types of water districts have been provided for by a specific chapter of the Texas Water Code. However, no chapter in the Texas Water Code provides for the powers, authority or administrative structure of irrigation districts.

In the 64th Legislature, Regular Session, the Committee on Natural Resources was referred H.B. 1668 by Craddick. This lengthy bill would have added a new chapter to the Texas Water Code, providing for the creation and administration of and the powers and functions for irrigation districts. Existing irrigation districts operating under Chapter 51 or Chapter 55 of the Texas Water Code would be able to convert to the new chapter.

H.B. 1668 was introduced rather late in the 64th session. For the most part, it was recommended by the Natural Resources Committee to the House, but failed to reach the House floor for consideration before the session ended.
Subchapter F of H.B. 1668 was considered controversial. It provided for a weighted-voting system, as an alternative to a one man-one vote election system, in which the district could adopt an election procedure which bestows upon each landowner one vote for each $100.00, or fraction thereof, of the valuation of his irrigable land for tax purposes. (A proposed amendment would provide one vote for one acre if the district were taxed on a benefit basis.) Corporations would be permitted to vote. Non-landowners could not vote (and would not be taxed).

The proponents of the bill have stated that a weighted-voting system is fair, because those receiving the direct benefits should be the only persons taxed and should be the only persons controlling such district. Further, the bill provides that the weighted-voting procedure can only be implemented if adopted by an election of all persons residing within the District and currently eligible to vote. Still further, the alternate voting plan could not be adopted if holders of outstanding bonds and the U.S. government, in the event of an existing federal contract, disapproved.

Weighted-voting by a water district has recently been upheld by the U.S. Supreme Court in Salyer Land Co. v. Tulane Lake Basin Water Storage District, 410 U.S. 719, 35 L.Ed.2d 659, 93 S.Ct. 1224 (1973) and in Associated Enterprise Inc., et al v. Toltec Watershed Improvement District, 410 U.S. 743, 35 L.Ed.2d 675, 93 S.Ct. 1237 (1973). In the former case, weighted voting based on acreage valuation was upheld as not violative of the "one-man, one vote" principle embodied in the equal protection clause of
the 14th Amendment of the U.S. Constitution. In Toltec, voting based on a number of acres owned was upheld by the U.S. Supreme Court because of the limited purpose of the district involved and because the impact of the district's activity was confined to a relatively few residents within the district.

The Committee at this time, however, is reluctant to recommend legislation which would disenfranchise residents within the districts. The one-man, one vote principal inherent in our Constitution is not one to be quickly abandoned. Persons, such as tenant farmers, could be directly affected by the actions of the irrigation districts but would be disenfranchised by the weighted-voting provision. Further, the Committee noted that not all persons representing irrigation districts and testifying before the Subcommittee were in favor of the weighted-voting provision.

Accordingly, the Committee recommends amendment of H.B. 1668 as introduced in the 64th Legislature but without a subchapter providing for weighted-voting.
V. SAN ANTONIO WATER SUPPLY

The City of San Antonio is but a part of a region encompassing all or part of several counties that depends substantially on the Edwards Aquifer for its water supply. Included among those counties dependent upon the Edwards Aquifer are Uvalde, Comal, Kendall, Kinney, Medina, Bexar, Wilson and Hays counties. Unlike the aquifers in the northern and western portions of our state, the Edwards is naturally recharged by rainwater and surface water streams. Most of the recharge occurs along the Balcones Fault. As a result of the above named counties' mutual dependence upon the Edwards, the water supply problems of San Antonio can not be focused upon microcosmically but must be viewed in the macrocosm of the Guadalupe and San Antonio River Basins region.

The average recharge for the Edwards Aquifer for the period 1934-1973 was 560,000 acre-feet per year. Well discharge has been steadily increasing, averaging 331,000 acre-feet per year for the period 1967-1973. The San Antonio metropolitan area accounted for 50% of the average well discharge or 175,000 acre-feet. Irrigation to the west of San Antonio accounted for 33% of the total well discharge or about 108,000 acre-feet.

It is projected that ever increasing demands will be placed on the Edwards as population, industry and irrigation increase in the region in future years. Total water requirements for the San Antonio-Guadalupe River Basins may triple by 2020 according to projections of the Bureau of Reclamation. On the other hand, withdrawals from the Edwards can not exceed 500,000 acre-feet.
(a/f) per year (except during periods of high recharge) without encroachment upon the water table. Under normal conditions, projected demand on the Edwards will exceed 500,000 a/f in about 1992. Under drought conditions, the encroachment on the water table could come earlier. \(^1\) The Committee found that the area dependent on the Edwards Aquifer must take immediate steps to secure future surface water supplies in order to forestall a drawdown of the water table.

The interdependence of San Antonio-Bexar County with nearby counties on the same limited water supply indicates the need for regional planning and development of the area surface and groundwater supplies. Presently Canyon and Medina Reservoirs are the only major reservoirs in the area. Future development of Cloptin Crossing, Apperwhite, Cibolo and Cuero Reservoirs will be needed to meet projected regional needs. Because it requires 10 to 15 years to complete reservoirs after initial plans are made, it is imperative that plans for some or all of the above reservoirs be acted upon within the very near future.

A great deal of testimony was given concerning which of these reservoirs should be started first, and whether the City of San Antonio should enter into a certain proposed contract with the GBRA. The Committee, however, does not have the expertise to make recommendations on these issues.

More importantly, the Committee, acting from the viewpoint of the State of Texas at large, should not presume to make such

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\(^1\) During the drought encountered in 1956, drawdown on the water table was so extensive as to cause the cessation of flow in Comal and San Marcos Springs.
recommendations. These problems face the people in the area of the Edwards Aquifer. Agencies of the State, as well as the federal government, have made certain recommendations based on technological considerations. But the people residing in the area of the Edwards Aquifer, considering political and social factors, must make the decisions necessary to initiate the remedy.

The State of Texas does have a role in providing financial assistance for water projects. Through the Water Development Fund, the State may have a program for providing loans for the construction of such projects as are necessary to secure San Antonio's future water supply.

A suggestion was made during the hearings that the State should have a grant program, instead of or in addition to the current loan program, in order to give better assistance to local political subdivisions in the development of water resources.

Whether a grant program could be instituted under current Constitutional provisions is not clear, but the Committee recommends that further consideration and study be given to this suggestion.

Conflicting testimony was presented as to the need for a new governmental entity (or the restructuring of an existing entity such as the Edwards Underground Water District) to represent the area within the San Antonio-Guadalupe River Basins so that all of the region's water needs are met and the costs equitably shared.

No attempt has been made to organize voluntary cooperation among the people in the area. The Committee suggests that such a voluntary effort would necessarily be the beginning of the creation
or restructuring of a governmental entity to solve the area's needs. A vehicle needs to be found which will involve people from throughout the area and to provide a forum for discussion of mutual problems. Proposed legislation may be developed through such cooperation, and the Committee believes the Legislature will cooperate in implementing such locally developed proposals.

It is unfortunate that no forum presently exists because the City of San Antonio is faced with making decisions now which will affect the entire area for many years to come. But this only points out the need for action to be initiated immediately.

If action by the Texas Legislature is necessary, the Committee believes the people in the region, working through their representatives and existing governmental bodies, should attempt to reach a consensus as to the need for legislative action and the type of legislation needed.
VI. AMALGAMATION OF THE WATER AGENCIES

The Texas Water Development Board, Texas Water Quality Board and the Texas Water Rights Commission are the three major water agencies of Texas. The Committee was charged with the responsibility of determining whether or not it would be beneficial to the State for the agencies to be consolidated.

A. FINDINGS

The Committee made the following findings:

1. HISTORY

In 1913, the Legislature, recognizing the need for a State water agency, created the State Board of Water Engineers. Among the duties of the State Board of Water Engineers was the registration of water rights and water facilities and the granting of permits for the appropriation of water.¹

In 1957, the Texas Water Development Board was created and was authorized to issue $200 million in Texas Water Development Bonds to finance state water projects.² Subject to certain restrictions, this bond authorization was later increased to $400 million.³ Also in 1957, the Texas Water Planning Act of 1957 was passed, authorizing the creation of a planning division in the State Board of Water Engineers and further authorizing the Board to make investigations, collect data and engage in many technical functions to develop an inventory of the waters of the State.⁴

¹ Tex. Laws, 1913, Ch. 171 at 358.
² Tex. Const. art. III, §49-c (1957); Tex. Laws 1957, Ch. 425, at 1268.
⁴ Tex. Laws, 1957, Ch. 11 at 23.
In 1961, the Legislature vested responsibilities concerning water quality in the Texas Water Pollution Control Board. Many of these functions had been previously performed by the Department of Health. Also in 1961, the State Reclamation Engineer's functions were transferred to the State Board of Water Engineers.

In 1962, the Legislature renamed the State Board of Water Engineers the Texas Water Commission and prescribed additional technical duties for the Commission.

In 1965, the Texas Research League recommended a realignment of the functions of the Texas Water Development Board and the Texas Water Commission. At the time of the League's recommendation, the Texas Water Development Board was only a financing agency. The Texas Water Commission was not only concerned with permitting water rights but also with data gathering and planning. In making its recommendation, the Texas Research League cited the conflict of interest problem that confronted the Texas Water Commission when it was serving in its quasi-judicial role but already had adopted a planning position with respect to the matter before it.

Accordingly, the Texas Research League recommended, in order to provide maximum efficiency and to eliminate unnecessary duplication, that the Texas Water Development Board be vested with all planning and technical and development functions. The Texas Water Commission would be restored to its pre-1957 position.

5 Tex. Laws, 1961, 1st C.S., Ch. 42 at 156.
6 Tex. Laws, 1961, Ch. 115 at 225.
7 Tex. Laws, 1962, 3rd C.S., Ch. 4, at 10.
of administering water rights. It was the intention of the Research League, when making its recommendation, that the Texas Water Commission's technical needs would be served by the Texas Water Development Board staff; the Commission would have only a small technical staff to review the data supplied by the Board, especially for those occasions when the Board would have an interest in the matter coming before the Commission.

In 1965, the Legislature implemented the Texas Research League's recommendations by enacting legislation which transferred the planning and technical functions of the Texas Water Commission to the Texas Water Development Board\(^8\) and placed the remainder of the Texas Water Commission's functions with a new agency named the Texas Water Rights Commission.\(^9\) Also in 1965, the Texas Water Development Board was given authority to adopt a state-wide water plan.\(^10\)

In 1967, the Texas Water Quality Act was passed, creating the Texas Water Quality Board and giving that agency primary authority over water quality matters in the State.\(^11\)

In 1968, the Texas Water Development Board released the Texas Water Plan which was approved by the Texas Water Rights Commission in 1969.

In 1971, $100 million additional Texas Water Development Bonds were authorized, by constitutional amendment adopted by

\(^8\) Tex. Laws, 1965, Ch. 297 at 587.

\(^9\) Tex. Laws, 1965, Ch. 296 at 583.

\(^10\) Tex. Laws, 1965, Ch. 297, §2 at 588.

\(^11\) Tex. Laws, 1967, Ch. 313 at 745.
the voters, for water quality enhancement purposes. In 1976, an additional $100 million bonds were authorized for the same purpose.

Until recently the three agencies were located in different buildings. In 1974, the Stephen F. Austin Building was completed, and almost all divisions of these agencies are now headquartered in that building.

Since 1965, the number of employees and the budgets of the Texas Water Development Board and the Texas Water Rights Commission have increased substantially. The same is true of the Texas Water Quality Board for the period since 1967. For the most part, the increases have been necessitated by additional responsibilities imposed upon these agencies by state and federal legislation and by inflation. Additionally, the aforementioned Texas Research League concept that the Texas Water Development Board would supply most of the technical expertise to the agency administrating water rights, has been abandoned in practice. The Texas Water Rights Commission has a sizable technical staff of its own including at least 60 engineers or persons with engineering expertise.


13 In 1969, the Texas Water Development Board had approximately 290 employees with an appropriation of $4,405,451.00. As of Nov. 1, 1976, the Texas Water Development Board had approximately 374 employees with a 1976 appropriation of $8,921,062. In 1969 the Texas Water Rights Commission had approximately 79 employees with an appropriation of $856,242. As of Nov. 1, 1976, the Texas Water Rights Commission had approximately 178 employees with a 1976 appropriation of $2,979,353.

14 In 1969, the Texas Water Quality Board had approximately 89 employees with an appropriation of $1,789,627.00. As of Nov. 1, 1976, the Texas Water Quality Board had approximately 403 employees with a 1976 appropriation of $8,158,329.
2. STRUCTURE AND FUNCTION OF THE AGENCIES

(a) Texas Water Development Board

The Texas Water Development Board consists of six citizen members appointed by the Governor with the advice and consent of the Senate. Each member is to be from a different section of the State and to have at least ten years of successful business or professional experience. Additionally, the fields of engineering, public or private finance, law and farming or ranching are to be represented by at least one member. The other two members are to be from the public-at-large. The members of the Board hold office for staggered terms of six years with the terms of two members expiring every two years. By statute, the Board is to have a chairman who is designated by the Governor, and a vice chairman elected by members of the Board, and is to meet once each month. The members receive a nominal fee for each day they serve in performance of their duties, together with travel and other necessary expenses, but do not receive a salary.

Among the important functions performed by the Board are:
(1) financing local water projects and acquiring storage in water projects, as well as administering the Texas Water Development Fund and the Texas Water Quality Enhancement Fund; (2) maintaining a current state-wide plan as a flexible guide for the development of water resources within the state; (3) collecting data and making investigations and studies related to water availability, groundwater quality protection, bay and estuary preservation, weather modification programs and other water oriented functions; (4) serving as local sponsor on federal water projects, and (5) administering the Water Well Driller's Act.
(b) Texas Water Quality Board

The Texas Water Quality Board by statute is composed of seven members, three appointed by the Governor with the advice and consent of the Senate and the other four being: the Executive Director of the Texas Water Development Board, the Commissioner of the Department of Health Resources, the Executor Director of the Parks and Wildlife Department and the Chairman of the Texas Railroad Commission. The members appointed by the Governor hold office for a staggered term of six years with the term of one member expiring every two years. The members appointed by the Governor need not have experience in certain fields to be eligible for appointment. The Board has a chairman and a vice chairman elected by the Board. The chief executive officer of the Water Quality Board is the Executive Director. The following are among the important functions of the Texas Water Quality Board: (1) the preparation and development of a general comprehensive plan for the control of water quality in the state; (2) the research in and investigation of water quality throughout the state; (3) the establishment of water quality standards and the issuance of permits and amendments to permits for the discharge of waste into or adjacent to water in the State; (4) the approval of waste disposal systems other than those that are subject to the approval of the Department of Health Resources (municipal solid waste disposal systems); (5) the designation of regional and area-wide disposal systems; (6) enforcement of water quality standards by the institution of civil suits for violation of Board rules, regulations, permits or other orders; (7) the permitting of waste disposal wells; and (8) the regulation of private sewage facilities.
(c) Texas Water Rights Commission

The Texas Water Rights Commission is composed of three members appointed by the Governor with the advice and consent of the Senate. The members are to hold office for staggered terms of six years, with the term expiring every two years on an odd numbered year. To be eligible for appointment, a member must have some knowledge of water law and must execute a $10,000 bond payable to the State of Texas. Each member is salaried and serves on a full-time basis. The chief executive officer of the Commission is the Executive Director, who is employed by the Commission and serves at the will of the Commission. Among the important functions of the Texas Water Rights Commission are the following: (1) the authority to fix reasonable water rates; (2) the authority to grant permits and permit amendments for the appropriation of water; (3) the authority to hold hearings on proposed federal projects; (4) supervision of dams located in the State to insure their safety; (5) the authority to permit the construction of dams; (6) the authority to adjudicate rights on streams within the State; (7) the authority to cancel permits for non-use; (8) the supervision of water districts throughout the State; and (9) the authority to create water districts in the State.

3. DUPLICATION OF FUNCTIONS

Upon close examination, the Committee did not find any technical areas where functions were being duplicated by two or more agencies. Where potential duplication of technical functions existed, the agencies ordinarily have communicated and coordinated among each other to avoid duplicity in their operations.
Duplication of technical expertise does exist. All three agencies have similar technical personnel such as hydrologists, environmentalists, lawyers and engineers. While these employees do not perform the same functions, they generally have the same professional credentials.

Duplication of administration functions do exist in the areas of personnel, administration, accounting, motor pool, supplies, data processing, purchasing, budget control, reproduction, library operations, central records, filing and mail processing.

4. CONFUSION OF FUNCTIONS

Because the State has three major water agencies and because various water related functions are divided among the agencies, the subject matter jurisdictions of the agencies have become increasingly confusing to the public with the ever growing number of responsibilities being placed on the agencies. This confusion is compounded by the fact that some other agencies (notably the Railroad Commission and the Department of Health Resources) have similar (but not duplicated) functions. The problem is exacerbated when two or more agencies have jurisdiction over different facets of the same matter.

5. FEDERAL-STATE RELATIONS

Federal laws, federal programs, and federal sponsorship of projects have placed upon the state and its water agencies the responsibilities of complying with numerous federal requirements.

15 The Department of Health Resources has permitting authority over municipal solid waste disposal (Article 4477-7 V.A.C.S.) while the Railroad Commission has jurisdiction over oil and gas waste disposal wells (§§22.031, Texas Water Code) and the Texas Water Quality Board has jurisdiction over other waste disposal permits (§22.011, Texas Water Code).
Often the state action requires coordination among the water agencies with subject matter jurisdiction. Coordinated compliance with federal requirements promises to be a continuing problem and a source of confusion for the State.

6. PERMIT APPLICATION PROCESSING

Because more than one agency may have an official interest in an application submitted on a water related matter, there is some general public confusion as to where the application should be sent, how it should be processed and who should be notified.

7. EFFECTIVENESS AND COORDINATION AMONG THE AGENCIES

All three agencies are effectively discharging their duties assigned to them and have highly capable personnel. Coordination and communication among the three agencies is good except in the area of planning. The establishment and the active role played by the Interagency Council on Natural Resources and Environment has furthered coordination among the three agencies.

8. PRIOR STUDY

The 63rd Texas Legislature directed the Division of Planning Coordination, Office of the Governor\textsuperscript{16} to study the water agencies of the state having responsibility for natural resource and environmental matters, to determine in part whether or not the water agencies overlap in functions. The Division of Planning Coordination recommended, among other things, the consolidation of service functions of the agencies, including printing, drafting, computer services, accounting, supplies, purchasing, inventory,

\textsuperscript{16} Tex. Laws, 1973, Ch. 505 at 1339.
library, some data gathering, and some other administrative service functions.

9. CONCURRENT STUDY

At the time this study is being conducted, a similar study is being made by the Subcommittee on Natural Resources to the Joint Advisory Committee on Government Operations. Material submitted and gathered by that Subcommittee was made available to and reviewed by the staff of the Natural Resources Committee. The House of Representative Committee on Natural Resources expresses its gratitude to the Joint Advisory Committee and its staff for their assistance and cooperation.

10. AGENCY COOPERATION

Without exception, the Committee received the fullest cooperation and great assistance from the personnel of the Texas Water Development Board, Texas Water Quality Board and Texas Water Rights Commission, for which assistance the Committee is most grateful.
B. CONCLUSIONS

The Committee reached the following conclusions:

1. The Texas Water Well Driller's Board should not have a separate agency staff, but should continue to have its administrative functions performed by the Texas Water Development Board or its successor.

2. A substantial and worthwhile savings in costs may be accomplished by the consolidation of the three major water agencies; the Texas Water Development Board, the Texas Water Quality Board, and the Texas Water Rights Commission. 17

3. Public confusion as to agency functions would be greatly reduced by the consolidation of the three major water agencies.

4. The consolidation of only the service functions of the agencies while leaving the remaining functions in separate agencies

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17 In testimony presented on May 3, 1976 to the Natural Resources Subcommittee of the Joint Advisory Committee on Government operations, James M. Rose, Executive Director of the Texas Water Development Board, projected the elimination of 40 staff positions and an annual savings of $500,000-$600,000 year in salaries, supplies, and equipment by the consolidation of the following Administrative areas: Personnel Administration, Purchasing and Supply, Accounting, Budget Control, Reproduction and Graphic Arts, Motor Pool, Library Resources, Central Records, Filing and Mailing and Data Processing. In its September 21, 1976 Supplementary Report, the Natural Resources Subcommittee of the Joint Advisory Committee on Government Operations projected a 10% reduction of technical personnel by the consolidation of engineering and technical operations with a savings in salaries alone of $952,000.00. The Committee on Natural Resources believes that the above figures were very conservative and that the savings from consolidation could be substantially greater than $1,552,000.00.
would be an awkward and probably unworkable situation, because the director(s) of the service functions should be accountable to the Executive Director of the agency he serves. It would be awkward to have the service division director(s) accountable to two or three executive directors.

5. The Executive Director of the combined agency would be able to perform his tasks if assisted by three, highly qualified, deputy directors, one each for the fields of development, water quality and water rights.

6. Required coordination among separate state agencies would be eliminated and simplified by a consolidated agency.

7. Federal state relationships in water matters would be greatly simplified by a consolidated agency.

8. A consolidated agency could avoid a conflict of interests problem between the quasi-judicial and the planning and financial functions, if the quasi-judicial decisions were made by persons appointed by the Governor and who were not answerable to the Board that governed other agency functions.

9. A consolidated agency would make easier and result in more effective, comprehensive planning for Texas water needs. Comprehensive planning should be done to meet water quality, water rights and water development needs of the state and should integrate
the factors of water quality, water rights, water supply and water demand.

10. Because three separate Texas Constitution provisions\(^\text{18}\) recognize the "Texas Water Development Board" by name, the consolidated agency should be known initially as the Texas Water Development Board. That name would be somewhat of a misnomer, because it would not reflect the wide range of responsibilities of the agency.

A constitutional amendment could be submitted to the electorate in the near future authorizing a more appropriate name for the agency and imposing upon the agency all of the existing obligations, duties and responsibilities of the Texas Water Development Board (the initial consolidated agency).

11. One division of the consolidated agency should be the receiving point for all applications related to water matters. The division should then distribute copies of the application to all interested divisions and agencies to eliminate confusion and then serve as a clearing house for all inquiries and information relating to the application.

\(^{18}\) Article III, Section 49-c creates the Texas Water Development Board, and together with Section 49-d and 49-d-l authorizes the Board to issue general obligation bonds for water development and/or water quality purposes.
C. RECOMMENDATION

The Committee recommends the consolidation of the Texas Water Development Board, Texas Water Quality Board and Texas Water Rights Commission into one agency, initially named the "Texas Water Development Board" with the following organizational chart and with the duties and functions shown on the attached outline.
Proposed Structure and Functions of Consolidated Agency

I. The Board

A. Composition
1. Part-time non-paid six member citizen board
2. Governor names with advice and consent of Senate
3. One member from each part of the state
4. One member to represent each of the following fields:
   a. finance
   b. law
   c. engineering
   d. farming and ranching
   e. environmental interests
   f. at large
5. Each member to have been involved in his field of interest for at least 10 years.
6. Six-year staggered terms--may be removed for cause by the Governor and serve no more than two terms.

B. Meetings at least once each month

C. Duties
1. Appoints the Executive Director, Director of Board Staff
2. Adopts policy guidelines for Executive Director and divisions below Executive Director
3. Adopts budgetary targets for Executive Director
4. Passes on loan applications, storage acquisitions, and issuance of bonds
5. Provides a flexible guide for water development and water quality
6. Adopts rules and regulations for management of the Texas Water Development and Texas Water Quality Enhancement Funds.

II. Water Commissioners

A. Composition
1. Three full-time salaried members
2. Representing different areas of state
3. One member represents the following fields
   a. law
   b. engineering
   c. at large
4. Appointed by Governor with advice and consent of Senate; six-year staggered terms--may be removed for cause by the Governor and serve no more than two terms
5. Each member must have some knowledge of water law

B. Performs all quasi-judicial functions currently performed by the Texas Water Development Board, Texas Water Rights Commission, Texas Water Quality Board, including:
1. Water rights permits
2. Water quality permits
3. Permit enforcement hearings
4. Solid waste permits
5. Weather modification permits
6. Reclamation Engineer permits
7. Standards promulgation
8. Standards enforcement hearings
9. Dam safety hearings
10. Water district creation and regulation
11. Water master operation
12. Water rights adjudication
13. Hearings on feasibility of federal projects
14. Hearings on water district projects
15. Hearings on water district bond issues
16. Hearings on delineation of ground water reservoirs.

C. Adopt rules and regulations for matters coming before the Commissioners.

D. Develop budget requirements and present budget either through the Board or as a separate document.

E. Hire Chief Hearing Examiner and Director of Technical Review.

F. Rulings of the Commissioners to be appealed directly to the Courts.

III. Board Staff

A. Headed by Director appointed by Board.

B. A staff complement (not to exceed two professional, one clerical personnel) hired by Director with approval of the Board.

C. Staff would review matter to come before the Board and assist with meetings.

IV. Technical Review Division

A. Headed by Director appointed by Commissioners.

B. Director hires all personnel (not to exceed eight technical advisory and two clerical personnel).

C. A small technically oriented staff to assist the Commissioners in checking the findings of the Executive Director's staff when matter reviewed by the Executive Director's staff present potential conflicts with positions adopted by the Executive Director's Staff or the Board; to assist in drafting permits; and to make determinations regarding information needed from Executive Director.
V. Hearing Examiners Division

A. Headed by Chief Hearing Examiner appointed by Commissioners.
   1. All personnel hired by Chief Hearing Examiner.
   2. Preliminary findings to be presented to Commissioners for action.

VI. Executive Director

A. Appointed by Board

B. Assisted by three Deputy Directors hired by Executive Director with approval of the Board

C. Hires Directors for divisions below

D. Receiving point for all applications and matters to be considered by Board or Commissioners

E. Exclusive control over all executive functions of the agency within budgetary targets and policy guidelines established by the Board.

F. Executive Director or Deputy Director shall present staff or Board position on applications and matters to be considered by Commissioners, including but not limited to the preparation and submission of testimony at hearings as to relationships of matters with state plans and programs. Technical testimony may be presented by staff support as appropriate.

G. Responsible for performance of all planning, bond administration, and technical functions now performed by the Texas Water Development Board, Texas Water Quality Board, and Texas Water Rights Commission including:
   1. Statewide planning
   2. Implementation of state planning requirements of P.L. 92-500
   3. Implementation of Facilities grant program
   4. Administration of Texas Water Development and Texas Water Quality Enhancement Funds
   5. Enforcement of orders by Commissioners
   6. Weather modification
   7. A-95 review
   8. Water use inventories
   9. Water supply and requirement projections
   10. Flood insurance program
   11. Support Water Well Driller's Board
   12. Surface casing support--Railroad Commission
   13. Data and technical programs required to support water resource conservation and management
   14. Technical support required on all matters coming before Water Commissioners
   15. Implement federal mandates on state water resources.
VII. Fund Administration

A. Headed by Development Fund Manager

1. Appointed by Executive Director, with approval of Board.
2. Authorized to communicate directly with the Board.