

AGENDA

**MEETING OF THE BOARD OF DIRECTORS'
EXECUTIVE COMMITTEE AND/OR OF THE
BOARD OF DIRECTORS**



SAN ANTONIO RIVER AUTHORITY

March 9, 2011, 1:00 p.m.

**Estimated Presentation Time: 1.5 hours*

GENERAL AND CEREMONIAL ITEMS:

Estimated Presentation Time: 5 minutes

1. **CALL TO ORDER BY THE CHAIRMAN, MR. GAYLON J. OEHLKE**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL BY THE SECRETARY, MR. ROBERTO G. RODRÍGUEZ**
 - Terry E. Baiamonte
 - Sally Buchanan
 - A.D. Kollodziej, Jr.
 - Hector R. Morales
 - Roberto G. Rodríguez
 - Gaylon J. Oehlke
4. **CERTIFICATION OF A QUORUM BY THE SECRETARY**
5. **INTRODUCTION OF VISITORS**
6. **CITIZENS TO BE HEARD**

**Represents the time staff anticipate that it will take to make presentations or give briefings; does not include an estimate of the time required for discussions generated by Board members.*

7. **APPROVAL OF THE MINUTES OF THE EXECUTIVE COMMITTEE MEETING HELD ON FEBRUARY 16, 2011**
8. **PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING PROPOSED LEGISLATION RELATING TO A SALES AND USE TAX FOR IMPLEMENTING SPECIES PROTECTION PROGRAMS FOR THE EDWARDS AQUIFER, THE GUADALUPE AND SAN ANTONIO RIVER BASINS AND THE SAN ANTONIO BAY AND ESTUARY SYSTEM**
9. **PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING ACTIVITIES ASSOCIATED WITH THE 82ND SESSION OF THE STATE LEGISLATURE AND THE 112TH CONGRESS**
10. **EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING THE ARANSAS PROJECT V. SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**
11. **PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE ARANSAS PROJECT V. SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**
12. **GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:**
 - **UPCOMING EVENTS CALENDAR,**
 - **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
 - **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**
13. **ITEMS FOR FUTURE CONSIDERATION**
14. **NEXT MEETING DATE**
15. **ADJOURN**

Estimated Presentation Time: 1.5 Hours

SAN ANTONIO RIVER AUTHORITY
General Statements

This meeting is wheelchair accessible. Accessible parking is located at 100 E. Guenther Street. Requests for an interpreter for the hearing impaired must be received at least 48 hours prior to the meeting, or, to arrange for special assistance to attend this meeting, please call the Operator at 210-227-1373.

The Board of Directors' Executive Committee of the San Antonio River Authority may discuss and/or take action on any item listed in this agenda while convened in open session. The Board of Directors of the San Antonio River Authority may also meet in Executive Session, pursuant to Section 551.071 of the Texas Government Code, to receive advice from legal counsel on any item listed in this agenda.

Executive Committee

Date: 03/09/2011

Approval of the Minutes

Submitted For: Suzanne B. Scott

Submitted By: Lupe Sanchez

Division: Executive Offices

CAPTION

**APPROVAL OF THE MINUTES OF THE EXECUTIVE COMMITTEE MEETING HELD ON
FEBRUARY 16, 2011**

Presenter

Mr. Oehlke, Committee Chairman

Estimated Presentation Time: 5 minutes

Recommendation

Motion to approve the minutes of the Executive Committee Meeting held on February 16, 2011, as presented.

Discussion

Vote

Attachments

February 16, 2011, Executive Committee Meeting Minutes

MINUTES

**MEETING OF THE BOARD OF
DIRECTORS' EXECUTIVE COMMITTEE**



SAN ANTONIO RIVER AUTHORITY

February 16, 2011, 11:30 a.m.

GENERAL AND CEREMONIAL ITEMS:

- 1. CALL TO ORDER WAS MADE BY THE CHAIRMAN, MR. GAYLON J. OEHLKE, AT 11:38 A.M.**
- 2. PLEDGE OF ALLEGIANCE WAS RECITED**
- 3. THE COMMITTEE SECRETARY, MR. ROBERTO G. RODRÍGUEZ, CALLED THE ROLL AND REPORTED THE FOLLOWING COMMITTEE MEMBERS PRESENT:**

- Terry E. Baiamonte
- Sally Buchanan (Absent)
- A.D. Kollodziej, Jr. (Absent)
- Hector R. Morales
- Gaylon J. Oehlke
- Roberto G. Rodríguez

- 4. CERTIFICATION OF A QUORUM BY THE SECRETARY**
- 5. INTRODUCTION OF VISITORS**

Ms. Sanchez announced the visitor who was present in the audience.

- 6. CITIZENS TO BE HEARD**

Ms. Sanchez announced that there were no citizens signed up to speak.

- 7. APPROVAL OF THE MINUTES OF THE EXECUTIVE COMMITTEE MEETING HELD ON DECEMBER 8, 2010**

Staff recommended a motion to approve the minutes of the Executive Committee Meeting held on December 8, 2010, as presented.

Motion made by Roberto G. Rodríguez

Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: Sally Buchanan (Absent)

A.D. Kollodziej, Jr. (Absent)

8. PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING SAN ANTONIO RIVER AUTHORITY BOARD OF DIRECTOR REPRESENTATION ON THE COMMITTEE OF EIGHT FOR RIVER SOUTH AREA MANAGEMENT PLAN IMPLEMENTATION

Staff recommended a motion that the Committee support appointment of Bexar County at-large members Sally Buchanan and Hector Morales to represent the San Antonio River Authority Board on the Committee of Eight for River South Area Management Plan Implementation.

Motion made by Terry E. Baiamonte

Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: Sally Buchanan (Absent)

A.D. Kollodziej, Jr. (Absent)

Mr. Rodríguez moved to amend the motion by naming Mr. Pérez as an alternate.

Motion made by Roberto G. Rodríguez

Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: A.D. Kollodziej, Jr. (Absent)

Sally Buchanan (Absent)

9. DISCUSSION AND APPROPRIATE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN ANTONIO RIVER AUTHORITY AND THE SAN ANTONIO RIVER FOUNDATION

Staff recommended a motion indicating Executive Committee support for presenting the Memorandum of Understanding between the San Antonio River Authority and the San Antonio River Foundation to the San Antonio River Authority Board of Directors for approval.

Motion made by Terry E. Baiamonte

Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Motion made by Roberto G. Rodríguez
Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: Sally Buchanan (Absent)
A.D. Kollodziej, Jr. (Absent)

**8. PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING
SAN ANTONIO RIVER AUTHORITY BOARD OF DIRECTOR
REPRESENTATION ON THE COMMITTEE OF EIGHT FOR RIVER SOUTH
AREA MANAGEMENT PLAN IMPLEMENTATION**

Staff recommended a motion that the Committee support appointment of Bexar County at-large members, Sally Buchanan and Hector Morales, to represent the San Antonio River Authority Board on the Committee of Eight for River South Area Management Plan Implementation.

Motion made by Terry E. Baiamonte
Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: Sally Buchanan (Absent)
A.D. Kollodziej, Jr. (Absent)

Mr. Rodríguez moved to amend the motion by naming Mr. Pérez as an alternate.

Motion made by Roberto G. Rodríguez
Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: A.D. Kollodziej, Jr. (Absent)
Sally Buchanan (Absent)

**9. DISCUSSION AND APPROPRIATE ACTION REGARDING A MEMORANDUM
OF UNDERSTANDING BETWEEN THE SAN ANTONIO RIVER AUTHORITY
AND THE SAN ANTONIO RIVER FOUNDATION**

Staff recommended a motion indicating Executive Committee support for presenting the Memorandum of Understanding between the San Antonio River Authority and the San Antonio River Foundation to the San Antonio River Authority Board of Directors for approval.

Motion made by Terry E. Baiamonte
Seconded by Hector R. Morales

Vote: 4 - 0 Passed

Other: Sally Buchanan (Absent)
A.D. Kollodziej, Jr. (Absent)

Attachments:
MOU

TIME CERTAIN:

- 12:10 p.m. - The Committee recessed for lunch.
- 12:25 p.m. - The Committee resumed the meeting.

10. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING ACTIVITIES ASSOCIATED WITH THE 82ND SESSION OF THE STATE LEGISLATURE AND THE 112TH CONGRESS

There being no action taken on this item, Mr. Oehlke called for Agenda Item 11.

11. EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING THE ARANSAS PROJECT V. SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

After appropriate disclosure in accordance with Chapter 551 of the Texas Government Code, the Open Meetings Act, Section 551.071, Mr. Oehlke then recessed to meet in Executive Session at 1:17 p.m. for consultation with attorney regarding the Aransas Project v. Shaw, et. al., Case no. 10-40633 in the United States Court of Appeals for the Fifth Circuit. The Executive Session having concluded, the Executive Committee Meeting resumed into Open Session at 1:30 p.m.

12. PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE ARANSAS PROJECT V. SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

There being no action taken on this item, Mr. Oehlke called for Agenda Item 13.

13. GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- **UPCOMING EVENTS CALENDAR,**
- **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
- **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**

Ms. Scott asked to postpone the General Manager's report until the Board meeting, scheduled immediately after the Executive Committee meeting, and Mr. Oehlke consented.

14. ITEMS FOR FUTURE CONSIDERATION

Mr. Rodríguez requested that an item be placed on a future agenda regarding a bill that will impose a new fee to the citizens of Bexar County. Ms. Scott assured Mr. Rodríguez that it will be discussed at the next Executive Committee meeting in March.

15. NEXT MEETING DATE

Mr. Oehlke announced that the the next Executive Committee meeting will be Wednesday, March 9, 2011, at 1:00 p.m.

16. ADJOURN

There being nothing further to report, Mr. Oehlke called the meeting adjourned at 1:35 p.m.

PREPARED AND RECOMMENDED FOR COMMITTEE APPROVAL BY THE MANAGER.

SUZANNE B. SCOTT, General Manager

APPROVED BY THE BOARD OF DIRECTORS' EXECUTIVE COMMITTEE AT THE MEETING HELD ON MARCH 9, 2011.

GAYLON J. OEHLKE, Board Chairman

ATTEST:

ROBERTO G. RODRÍGUEZ, Board Secretary

MEMORANDUM OF UNDERSTANDING
Between San Antonio River Authority and San Antonio River Foundation

WHEREAS, the San Antonio River Authority (River Authority) formed the San Antonio River Foundation (River Foundation) on April 28, 2003, to assist the River Authority and other cooperating governmental entities in ensuring sustainable enhancements and management of the watersheds of the San Antonio River and its tributaries to benefit quality of life and the environment through charitable, scientific and educational activities; and

WHEREAS, since its creation the River Foundation has successfully raised private funding to support landscaping and public art enhancements to the Museum Reach and Mission Reach of the San Antonio River Improvements Project; and

WHEREAS, the mission of the River Foundation, a private non-profit organization, is to enhance the natural beauty, recreational use and public appreciation of the entire San Antonio River and its tributaries in Bexar, Wilson, Karnes and Goliad counties, and its established purpose is to operate exclusively to support charitable, scientific and educational activities that promote and encourage the conservation, stewardship, restoration, preservation, and enjoyment of the land and water resources of the San Antonio River and its tributaries; and

WHEREAS, the mission of the River Authority, a sovereign special purpose governmental entity, is to sustain and enrich life in the San Antonio River Watershed through innovative, sustainable, collaborative and customized watershed solutions; and

WHEREAS, the boards of directors of both the River Authority and the River Foundation believe that the adoption of an action plan between the two entities will ensure continued success and collaboration to the mutual benefit of the missions and purposes of both entities.

NOW, THEREFORE, BE IT RESOLVED that both the San Antonio River Authority and the San Antonio River Foundation have committed to work in unison under the terms of this Memorandum of Understanding, while maintaining each entity's independence and governance.

ARTICLE I: Objectives

- A. The River Authority and the River Foundation share a common objective to accomplish projects and programs that preserve and enhance the stewardship, enjoyment, ecosystem and economic benefits of the San Antonio River and its tributaries.
- B. The River Authority and the River Foundation recognize that each entity has defined roles and responsibilities in accomplishing a shared objective and agree to focus their respective resources toward tasks where each entity has the authority, responsibility and expertise to avoid duplication of efforts and promote synergy to advance complementary projects and activities.

ARTICLE II: Roles and Responsibilities

- A. The River Authority has the following roles and responsibilities for the San Antonio River:
 - a. All powers and duties granted by the State of Texas pursuant to Section 59 of Article 16 of the Constitution of Texas as originally authorized and subsequently amended. Generally, the River Authority has governmental responsibilities and expertise in the areas of: flood control, water quality, parks and recreation, environmental protection, utility service, water resource protection and development, asset management and maintenance and operation of river-related facilities,
 - b. The River Authority has agreed to perform specific roles and responsibilities for the project management, construction administration, operation and maintenance of the San Antonio River within Bexar County through separately executed Interlocal Agreements with the Bexar County Commissioners Court and the San Antonio City Council.
 - c. The River Authority Board of Directors annually approves a budget which includes programs, projects, and efforts to advance its mission and meet its roles and responsibilities.

- B. The River Foundation has the following roles and responsibilities for the San Antonio River:
 - a. The River Foundation raises and contributes private funding toward approved projects and programs to enhance the natural beauty, recreational use and public appreciation of the entire San Antonio River and its tributaries in Bexar, Wilson, Karnes and Goliad counties.
 - b. The River Foundation must remain fully qualified under the State of Texas and Federal law to engage in fundraising and receive philanthropic contributions.
 - c. The River Foundation may operate and maintain projects for which private funds have been applied and require specialized expertise.
 - d. The River Foundation serves as an advocate for the stewardship of the San Antonio River and its tributaries.

ARTICLE III: River Authority and River Foundation Coordination of Projects and Activities

- A. The River Authority and River Foundation agree to meet in January of each year to develop a three-year rolling River Authority and River Foundation Action Plan (Action Plan) to identify and agree upon projects and activities throughout the four-county River Authority district of Bexar, Wilson, Karnes and Goliad counties for which River Foundation private funding and/or collaboration with public funding could be used to enhance the natural beauty, recreational use and public appreciation of the entire San Antonio River and its tributaries. For the purpose of the Action Plan, a project is defined as requiring a capital investment in real estate, building or physical improvements of all types, and identification of individual entity role/responsibility. For the purpose of the Action Plan, an activity is defined as tasks not related to a capital investment such as operation, maintenance, public information, education, marketing, special events, media, governmental relations, and tasks of similar character.

- B. The Action Plan shall be approved by the board of each entity no later than March 30 of each year to ensure coordination with annual planning for each entity's fiscal year beginning July 1. The Action Plan for the 2011-2012 Fiscal Year shall be approved by the board of each respective entity no later than June 30 2011. Amendments to add or delete a new project or activity to the annual Action Plan or to modify project schedules or budgets may be made throughout the year jointly by the River Authority General Manager and River Foundation Executive Director. Such amendments shall be approved by the respective entity boards only if the amendment replaces a project in the current

year, or introduces a new project and/or activity in the current year valued at \$50,000 or more with funding sources and concepts previously identified. Projects and/or activities added, deleted or modified in the two subsequent years of the Action Plan must be approved jointly by the River Authority General Manager and River Foundation Executive Director and submitted for approval by the respective entity boards in March of the following year with the annual update to the Action Plan unless expenditures for these added subsequent-year projects and activities would occur in the current year and would require approval by the respective boards in accordance with operating policies and procedures.

- C. River Authority agrees to include in the annual Action Plan development process projects and/or activities within the following categories that either are initiated by the River Authority or brought to the River Authority for consideration:
 - a. Projects and/or activities for which private funding from any source has been or could be identified as the sole funding source or a partial funding source for project or program implementation.
 - b. Projects and/or activities that would propose the use of River Foundation property.
 - c. Mutual coordination of public information, communication, education, advocacy initiatives or special events that support projects and/or activities in the two categories above.
- D. River Foundation agrees to include in the annual Action Plan development process projects and/or activities within the following categories that either are initiated by the River Foundation or brought to the River Foundation for consideration:
 - a. Projects and/or activities, proposed privately or publicly, along the banks of the San Antonio River or its tributaries.
 - b. Demonstration of the River Foundation's financial capacity to support the projects, programs and activities it proposes to fund to the satisfaction of the River Authority.
 - c. Projects and/or activities for which public, governmental or funding from any source has been or could be identified as a potential source to support the project or activity.
 - d. Projects that would propose the use of River Authority and/or any other publicly owned property.
 - e. Projects and/or activities that propose involvement with other governmental entities within the River Authority's four-county district including projects and/or activities that require governmental entity review and approval.
 - f. Mutual coordination of public information, communication, education, advocacy initiatives and/or special events that support projects and/or activities in the five categories above.
- E. Through the annual development of the Action Plan, River Authority and River Foundation will:
 - a. Determine each entity's role/responsibility in each of the projects and/or activities to be identified in the Action Plan and the assigned contact person with each entity.
 - b. Identify the proposed schedule, budget and funding for the project and/or activity.
 - c. Update information in the Action Plan no less than quarterly to reflect the addition and/or deletion of projects and/or activities within the categories listed under Article III (C) and (D), and changes to schedules, budget and funding.
- F. The River Authority General Manager and the River Foundation Executive Director will meet no less than once a month to track progress and adherence to the Action Plan, address opportunities and challenges experienced with the Action Plan projects and/or activities and discuss new

projects/activities within the categories listed under Article III (C) and (D) that may be added to the Action Plan during the year.

- G. River Authority and River Foundation technical staff will meet no less than once every other month to coordinate the implementation of the projects and/or activities within the categories listed under Article III (C) and (D) included in the annual Action Plan or added to the Action Plan during the year.
- H. River Authority and River Foundation agree to make timely efforts to include the designated contact person/people, or representative, within the Action Plan in all meetings where the assigned project and/or activity would be discussed.
- I. Projects and/or activities within the categories listed under Article III (C) and (D) and located within the defined San Antonio River Improvements Projects should also be included in the Action Plan.

ARTICLE IV: Approval of Projects and Activities

- A. The approved Action Plan, and its amendments, will serve as the project plan for the River Foundation as it relates to projects and activities proposed to enhance the natural beauty, recreational use and public appreciation of the entire San Antonio River and its tributaries in Bexar, Wilson, Karnes and Goliad counties.
- B. The River Foundation and River Authority recognize that projects and activities implemented along the San Antonio River and its tributaries require various levels of public approvals to comply with local ordinances, local practices, state regulations and federal permitting requirements.
- C. The River Foundation and River Authority agree to work cooperatively to reach agreement on the designated roles and schedule of the appropriate public review and approval of project designs, construction and operation. The River Authority and River Foundation understand that required approvals will vary depending upon the project and may involve both compliance with formal approval processes as defined by local ordinance, state statute or federal public law and informal processes as defined through governmental expectations, practices and accepted public process.
- D. Upon agreement on the defined approval process for a project or activity, the River Authority- and River Foundation-designated staff will work together to ensure conformance with the approval process to achieve the most effective use of both private and public funding resources.
- E. The River Foundation and the River Authority may have approval requirements as defined by each entity's respective policies or practice. Both entities are responsible for integrating these approval processes at the appropriate time so not to hinder any public review process that may be required on projects within the Action Plan.

ARTICLE V: Communications

- A. The approved Action Plan will designate staff from the River Foundation and from the River Authority assigned to each project and activity within the plan. These respective designees are required to coordinate and communicate on the development and implementation of the project

and activity and report progress to the River Authority General Manager and the River Foundation Executive Director upon request.

- B. The River Authority General Manager, or designee, will be invited to attend each meeting of the River Foundation Board of Directors and will be requested no less than twice a year to provide a presentation to the River Foundation Board on the implementation of the Action Plan projects and activities and other matters of mutual interest to the entities.
- C. The River Authority General Manager, or designee, will be invited to attend River Foundation Executive Committee meetings and community meetings where issues on the development and implementation of Action Plan projects and activities would be on the agenda.
- D. The River Foundation Executive Director, or designee, will be invited to attend each meeting of the River Authority Board of Directors and will be requested no less than twice each year to provide a presentation to the River Authority Board on the implementation of the Action Plan projects and activities and other matters of mutual interest to the entities.
- E. The River Foundation Executive Director, or designee, will be invited to attend River Authority advisory committee meetings and community meetings where issues on the development and implementation of Action Plan projects and activities would be on the agenda.
- F. Both the River Foundation and River Authority agree to seek input, assistance and coordination first from each other when planning and implementing special events relating to projects and activities of mutual interest. Each entity shall not commit resources of the other without mutual approval from the River Authority General Manager and the River Foundation Executive Director.
- G. To promote coordination on project planning and implementation, the River Foundation Executive Director and the River Authority General Manager agree to inform each other of communication activities with elected officials representing all or part of Bexar, Wilson, Karnes and Goliad counties regarding projects in the Action Plan and other activities of mutual interest.
- H. The River Foundation and the River Authority agree to provide credit to each other and other governmental partners in news releases, videos, advertisements, signage and publications produced by the entities relating to projects and activities approved within the Action Plan. The actual wording of how the entity will be credited may vary with each project and activity and should be agreed to by the designated staff member(s) assigned to the project or activity.

Article VI: General Operation

- A. The River Foundation agrees to maintain a minimum of five members of its Board of Directors appointed by the River Authority Board of Directors. The five members may be members of the River Authority Board of Directors or designated appointees from the River Authority Board of Directors. These five members shall have no distinction from other members of the River Foundation Board of Directors and shall enjoy and adhere to all the same rights, privileges and requirements as other members of the River Foundation Board of Directors.

- B. The River Foundation will coordinate with the River Authority on the role, responsibilities and tasks of its committees to avoid duplication with the role, responsibilities and tasks of the River Authority.

- C. The River Authority agrees to allow the River Foundation's use of the River Authority's Headquarter facility by means of a lease agreement. The lease agreement shall include details of space use, parking, authorized access passes and rent payments and related issues. Scheduling of the use of meeting rooms shall be coordinated through the River Authority. If scheduling conflicts or room usage conflicts arise, the River Authority event shall take priority over the River Foundation event. If appropriate notice is provided, River Authority shall reserve public parking in the front lot for meetings as designated by the River Foundation.

- D. The River Authority may assume operations and maintenance responsibilities for River Foundation facilities depending upon the River Authority's capability to provide required maintenance. The discussions of these operations and maintenance requirements for each proposed project shall be included in the development of the annual Action Plan and, upon general agreement on the roles and responsibilities, a separate operations and maintenance agreement may be executed to detail each entity's responsibilities in the operations and maintenance of implemented projects

- E. The River Foundation agrees to establish an Operational Fund with a percentage of resources sufficient to sustain the maintenance responsibilities the River Foundation will fund. The River Foundation and the River Authority will mutually agree on the amount of resources to be allocated in the Operational Fund to ensure that the required maintenance standards will be adequately achieved through the Operational Fund. The River Foundation agrees to share information regarding the allocation and use of the Operational Fund for projects and activities in which the River Authority and the River Foundation may have joint roles and responsibilities previously approved by the Action Plan.

- F. The River Foundation and the River Authority agree to review the Memorandum of Understanding annually to determine if modifications are required to continue to promote the most effective, efficient and responsive working relationship between the two entities or if the agreement should be terminated.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL, ON THIS, THE _____ DAY OF _____, 2011.

SUZANNE B. SCOTT, GENERAL MANAGER
SAN ANTONIO RIVER AUTHORITY

ESTELA AVERY, EXECUTIVE DIRECTOR
SAN ANTONIO RIVER FOUNDATION

GAYLON J. OEHLKE, BOARD CHAIRMAN
SAN ANTONIO RIVER AUTHORITY

NICK HOLLIS, BOARD CHAIRMAN
SAN ANTONIO RIVER FOUNDATION

ATTEST:

STEPHEN T. GRAHAM, ASSISTANT GENERAL MANAGER
SAN ANTONIO RIVER AUTHORITY

SEAL

DRAFT

Executive Committee

Date: 03/09/2011

Proposed Sales Tax Legislation for Funding Water-Related Species Issues

Submitted For: Steve Raabe

Submitted By: Steve Raabe

Division: Technical Services

CAPTION

PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING PROPOSED LEGISLATION RELATING TO A SALES AND USE TAX FOR IMPLEMENTING SPECIES PROTECTION PROGRAMS FOR THE EDWARDS AQUIFER, THE GUADALUPE AND SAN ANTONIO RIVER BASINS AND THE SAN ANTONIO BAY AND ESTUARY SYSTEM

Presenter

Steve Raabe

Estimated Presentation Time: 20 minutes

The Edwards Aquifer Recovery Implementation Program (EARIP) steering committee is considering various alternatives for funding the proposed actions in the habitat conservation plan (HCP). One of the funding alternatives involves the enactment of a sales and use tax to be used for implementing species protection programs. At its February 10, 2011, meeting, the EARIP steering committee agreed by consensus to pursue legislation allowing the people of the region to vote on a ¼ of one percent regional sales tax as a funding mechanism for the EARIP program and other water-related issues with respect to species of concern in the region. The EARIP steering committee also agreed to develop alternative funding mechanisms not involving a sales tax while the EARIP is seeking authority for the regional sales tax.

In addition to funding the EARIP program, a portion of the proceeds of the proposed sales tax could be used for other water-related issues with respect to species of concern in the region. Specifically, the proposed legislation would direct the use of the sales tax to projects and studies identified in the Senate Bill 3 environmental flows program work plan as approved by the Environmental Flows Advisory Group or projects and studies relating to water-related issues with respect to species of concern jointly designated by the River Authority and the Guadalupe-Blanco River Authority.

The region where the sales tax is proposed to be collected consists of the Edwards Aquifer region and the Guadalupe and San Antonio River basins. The proposed legislation would require the Edwards Aquifer Authority, San Antonio River Authority and Guadalupe-Blanco River Authority boards to call the confirmation election for the sales tax within their respective districts. However, where the Edwards Aquifer Authority district overlaps with either the San Antonio River Authority's or Guadalupe-Blanco River Authority's districts, the Edwards Aquifer Authority board will call the election in those areas. River Authority staff is working with the drafters of the legislation to have the River Authority board jointly call the election in Bexar County with the Edwards Aquifer Authority board.

The first 1/8 of one percent of the proposed sales tax would be used to implement the EARIP, provided that not less than \$1.5 million per year shall be used to fund those other water-related issues related to species of concern, and would be collected upon the approval by the voters of the entire ¼ of one percent sales tax in the confirmation election. The second 1/8 of one percent of the proposed sales tax would not be collected until the Environmental Flows Advisory Group approves the work plan prepared by the Guadalupe, San Antonio, Mission and Aransas Rivers and Copano, Aransas and San Antonio Bays bay and basin area stakeholder committee. The proceeds of the proposed sales tax would be channeled through the Texas Water Development Board to the EARIP, Guadalupe-Blanco River Authority and the San Antonio River Authority upon the submission of applications for financial assistance by those entities for projects and studies included in the HCP, approved environmental flows work plan or as jointly designated by the San Antonio River Authority and the Guadalupe-Blanco River Authority.

Recommendation

Motion to be crafted, if necessary, after Committee discussion.

Discussion

Vote

Attachments

Proposed Sales Tax Legislation

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a sales and use tax for the purpose of implementing
3 species protection programs for the Edwards Aquifer, the
4 Guadalupe River basin, the San Antonio River basin, and the San
5 Antonio Bay and estuary system.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. FINDINGS AND DECLARATION OF POLICY. The
8 legislature finds that the Edwards Aquifer is a unique and
9 complex hydrological system, and has a hydrologic
10 interrelationship with the Guadalupe River and San Antonio River
11 basins. The Aquifer is the primary source of water for the
12 residents of the region, and is vital to the general economy and
13 welfare of this state. In keeping with these findings, the
14 legislature finds that it is necessary, appropriate, and a
15 benefit to the welfare of this state to provide for the
16 continued proper and effective management of the Aquifer to
17 sustain the diverse economic and social interests associated
18 with the Aquifer, and the interests of those species associated
19 with the Aquifer that have been listed under federal law as
20 threatened or endangered.

21 The legislature passed the Edwards Aquifer Authority Act in
22 1993 and created the Edwards Aquifer Authority to provide for
23 the necessary regulation and management of the Aquifer. The
24 legislature finds that management of the Aquifer under the

1 Edwards Aquifer Authority Act has provided a sound and effective
2 framework for the aquifer's management. To foster and further
3 advance the protection of the threatened or endangered species
4 associated with the Aquifer, the legislature amended the Edwards
5 Aquifer Authority Act in 2007 to institute a consensus-based
6 process that involves input from the United States Fish and
7 Wildlife Service, other appropriate federal agencies, the
8 Edwards Aquifer Authority, the Texas Commission on Environmental
9 Quality, the Texas Parks and Wildlife Department, the Texas
10 Department of Agriculture, the Texas Water Development Board,
11 the Guadalupe-Blanco River Authority, the San Antonio River
12 Authority, the San Antonio Water System, and other interested
13 stakeholders to develop an Edwards Aquifer recovery
14 implementation program for the species in compliance with the
15 federal Endangered Species Act of 1973 (16 U.S.C. Section 1531
16 et seq.), as amended.

17 The legislature created a steering committee for the
18 program that, after more than three years of consensus-based
19 study, investigation, and decision-making, will by the end of
20 2011, present to the Edwards Aquifer Authority certain program
21 documents containing recommended courses of action for the
22 implementation of certain species protection measures for the
23 threatened or endangered species associated with the Aquifer and
24 the riverine and riparian lands at and proximately located
25 downstream of Comal Springs and San Marcos Springs.

26 In amending the Edwards Aquifer Authority act to institute
27 the Edwards Aquifer recovery implementation program, the

1 legislature now finds that no funding mechanism was provided for
2 the implementation of the program, and, for this reason, the
3 legislature finds that a broad-based regional funding mechanism
4 dedicated to the implementation of the program is required and
5 vital to the general economy and welfare of this state, and
6 particularly to the Edwards Aquifer region in South Central
7 Texas and the Guadalupe River and San Antonio River basins. The
8 imposition of a sales and use tax in the area of the state that
9 is the beneficiary of the activities undertaken under the
10 Edwards Aquifer recovery implementation program is the most
11 appropriate mechanism to generate revenue for and allocate the
12 costs for this program and is in the public interest.

13 The legislature also finds that the Guadalupe River and San
14 Antonio River basins are primary sources of water for the
15 residents of South Central Texas and for inflows into the San
16 Antonio Bay and estuary system, and are vital to the general
17 economy and welfare of this state. The legislature also
18 recognizes that the ecological soundness of these river basins
19 and bay system are important to the economy, health and well
20 being of the state. For these reasons, the legislature finds
21 that it is necessary, appropriate, and a benefit to the welfare
22 of this state to provide for the continued proper and effective
23 management of the Guadalupe River and San Antonio River basins
24 and the San Antonio Bay and estuary system to sustain the
25 diverse economic and social interests associated with these
26 river basins and bay system and the interests of those species
27 that have been listed under federal law as threatened or

1 endangered, or are otherwise considered to be species of concern
2 and are associated with these river basins and bay system.

3 To improve the foundation of work accomplished by the state
4 relating to freshwater inflow needs for bays and estuaries in
5 the state, and to fully address bay and estuary environmental
6 flow issues, in 2007 in Senate Bill 3, 80th Legislature, the
7 legislature instituted a more intensive environmental flows
8 process across the state to evaluate riverine environmental flow
9 conditions and develop management strategies for addressing
10 environmental flow needs through an ongoing, regional consensus-
11 based, and adaptive approach involving balanced representation
12 of stakeholders.

13 To facilitate the environmental flows process, the
14 legislature created the Environmental Flows Advisory Group to
15 study the public policy implications for balancing the demands
16 on the water resources of the state resulting from a growing
17 population and the environmental flow requirements of the
18 riverine, bay, and estuary systems of the state, including those
19 in the Guadalupe River and San Antonio River basins and the San
20 Antonio Bay and estuary system. In the course of its work, the
21 advisory group is considering issues that it determines have
22 importance and relevance to the protection of environmental
23 flows in the state's riverine, bay, and estuary systems,
24 including those of the Guadalupe River and San Antonio River
25 basins and the San Antonio Bay and estuary system.

26 To assist in the evaluation and recommendation process for
27 the environmental flows process for the Guadalupe River and San

1 Antonio River basins and the San Antonio Bay and estuary system,
2 a basin and bay area stakeholder committee and an expert science
3 team were established to make recommendations to the
4 Environmental Flows Advisory Group and the Texas Commission on
5 Environmental Quality regarding environmental flow standards and
6 strategies to meet those standards. After reviewing the work of
7 the expert science team, the stakeholder committee is scheduled
8 to make these recommendations in September 2011. After it
9 submits its recommendations to the advisory group and the Texas
10 Commission on Environmental Quality, the stakeholder committee
11 will prepare a work plan as required by the environmental flows
12 process that establishes, among other things, prioritized
13 strategies and projects as approved by the advisory group; a
14 periodic review of the environmental flow standards,
15 recommendations, and strategies at least once every 10 years;
16 specific monitoring, studies and activities; and a schedule for
17 continuing the validation or refinement of the environmental
18 flow standards, analyses, recommendations, and strategies. The
19 work plan is scheduled to be completed in 2012-2013 and will be
20 submitted to the advisory group for approval as required by the
21 environmental flows process.

22 In creating the environmental flows process, the
23 legislature finds that no funding mechanism was provided for the
24 development of the work plan or the implementation of strategies
25 to meet the environmental flow standards recommended by the
26 stakeholder committee for the Guadalupe River and San Antonio
27 River basins and the San Antonio Bay and estuary system, and,

1 for this reason, the legislature finds that a broad-based
2 regional funding mechanism dedicated to the development and
3 implementation of the environmental flows work plan for the
4 Guadalupe River and San Antonio River basins and the San Antonio
5 Bay and estuary system is required and vital to the general
6 economy and welfare of this state, and particularly to the
7 region encompassed by these river basins and bay system. The
8 imposition of a sales and use tax in the area of the state that
9 is the beneficiary of the activities undertaken under the
10 environmental flows process for these river basins and estuary
11 system is the most appropriate mechanism to generate revenue for
12 and allocate the costs for this process and is in the public
13 interest. Because the legislature finds that the Edwards Aquifer
14 and the Guadalupe River and San Antonio River basins have a
15 hydrologic interrelationship, it is appropriate to consider them
16 together in the creation of a regional funding mechanism for the
17 implementation of the species protection programs associated
18 with these hydrologic systems.

19 SECTION 2. Subtitle C, Title 3, Tax Code, is amended by
20 adding Chapter 328 to read as follows:

21 CHAPTER 328. EDWARDS AQUIFER, GUADALUPE RIVER BASIN, SAN ANTONIO
22 RIVER BASIN, AND SAN ANTONIO BAY AND ESTUARY SYSTEM SPECIES

23 PROTECTION SALES AND USE TAX ACT

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 328.001. SHORT TITLE. This chapter may be cited as the
26 Edwards Aquifer, Guadalupe River Basin, San Antonio River Basin,
27 and San Antonio Bay and Estuary System Species Protection Sales

1 and Use Tax Act.

2 Sec. 328.002. DEFINITIONS. (a) The words used in this
3 chapter and defined by Chapters 151 and 321 have the meanings
4 assigned by Chapters 151 and 321.

5 (b) In this chapter:

6 (1) "Advisory group" means the environmental flows
7 advisory group established by Section 11.0236, Water Code.

8 (2) "Authority" means the Edwards Aquifer Authority
9 established by Chapter 626, Acts of the 73rd Legislature,
10 Regular Session, 1993.

11 (3) "Authorities" means the Authority, the Guadalupe-
12 Blanco River Authority, and the San Antonio River Authority,
13 collectively.

14 (4) "Board" means the Texas Water Development Board.

15 (5) "Edwards Aquifer recovery implementation program"
16 has the same meaning as provided in Section 17.1001(6), Water
17 Code.

18 (6) "Financial assistance" has the same meaning as
19 provided in Section 17.1001(7), Water Code.

20 (7) "Guadalupe-Blanco River Authority" means the
21 river authority established by Chapter 75, Acts of the 43rd
22 Legislature, 1st Called Session, 1933, as amended.

23 (8) "Guadalupe River basin" means the geographical
24 extent of the river basin as delineated by Subsection (r) of
25 Section 360.3, 31 Texas Administrative Code, and within the
26 jurisdiction of the Guadalupe-Blanco River Authority.

27 (9) "Guadalupe River basin, San Antonio River basin,

1 and San Antonio Bay and estuary system environmental flows
2 program” has the same meaning as provided in Section
3 17.1001(11), Water Code.

4 (10) “Implementing agreement” has the same meaning as
5 provided in Section 17.1001(12), Water Code.

6 (11) “San Antonio River Authority” means the river
7 authority established by Chapter 276, Acts of the 45th
8 Legislature, Regular Session, 1937.

9 (12) “San Antonio River basin” means the geographical
10 extent of the river basin as delineated by Subsection (s) of
11 Section 360.3, 31 Texas Administrative Code, and within the
12 jurisdiction of the San Antonio River Authority.

13 (13) “Species protection programs” or “programs” means
14 the Edwards Aquifer recovery implementation program and the
15 Guadalupe River basin, San Antonio River basin, and San Antonio
16 Bay and estuary system environmental flows program,
17 collectively.

18 (14) “Species protection program area” or “program
19 area” means the area of a county:

20 (A) bordering or transected by the Guadalupe
21 River and located within the geographical extent of the
22 Guadalupe River basin;

23 (B) bordering or transected by the San Antonio
24 River and located within the geographical extent of the San
25 Antonio River basin; and

26 (C) within the boundaries of the Authority.

27 (15) “Species protection program fund” has the same

1 meaning as provided in Section 17.1001(8), Water Code.

2 Sec. 328.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A
3 and B, Title 2, and Chapters 142 and 151 apply to the taxes and
4 to the administration and enforcement of the taxes imposed by
5 this chapter in the same manner that those laws apply to state
6 taxes unless modified by this chapter.

7 SUBCHAPTER B. IMPOSITION AND USE OF SALES AND USE TAXES FOR
8 THE SPECIES PROTECTION PROGRAMS

9 Sec. 328.101. TAX AUTHORIZED. Subject to an election held
10 in accordance with Subchapter E, the authorities shall adopt a
11 sales and use tax under this chapter for their respective parts
12 of the species protection program area for the benefit and use
13 of the board as provided by Section 328.103.

14 Sec. 328.102. LIMITATION ON TAX RATE. The rate of a tax
15 imposed under this chapter may not exceed a total tax rate of
16 1/4 percent.

17 Sec. 328.103. USE OF TAX REVENUE. The revenue from a tax
18 imposed under this chapter shall be remitted by the controller
19 to the board for deposit in the species protection program fund
20 as provided by this chapter. The money received by the board
21 under this chapter may be used by the board only for the purpose
22 of providing financial assistance for the species protection
23 programs in accordance with Subchapter N, Chapter 17, Water
24 Code.

25 Sec. 328.104. EFFECTIVE DATE OF TAX. (a) Except as provided
26 in Subsection (b), if there is a tax imposed under this chapter,
27 the new rate in an amount of 1/8th percent takes effect on the

1 first day of the next calendar quarter after the expiration of
2 one calendar quarter after the comptroller receives notice of
3 the joint election results approving the imposition of the tax
4 as provided by Section 328.409. However, if the comptroller
5 notifies the executive administrator of the board and the
6 Authority in writing within 10 days after receipt of the
7 notification that the comptroller requires more time to
8 implement reporting and collection procedures, the comptroller
9 may delay implementation of the new tax rate for one calendar
10 quarter, and the new tax rate takes effect on the first day of
11 the calendar quarter that follows the elapsed quarter.

12 (b) If there is a tax imposed under this chapter, the
13 remaining portion of the new tax rate in the amount of 1/8th
14 percent takes effect the first day of the next calendar quarter
15 after the expiration of one calendar quarter after the
16 comptroller receives both: (i) notice of the joint election
17 results approving the imposition of the tax as provided by
18 Section 328.409, and (ii) the notice of additional measures
19 issued under Section 17.1008, Water Code, or the notice of
20 approval of the work plan issued under Subsection (t) of Section
21 11.02362, Water Code, whichever is earlier. However, if the
22 comptroller notifies the board and the Authority, the Guadalupe
23 Blanco River Authority and the San Antonio River Authority in
24 writing within 10 days after receipt of the notice of additional
25 measures that the comptroller requires more time to implement
26 reporting and collection procedures, the comptroller may delay
27 implementation of the new tax rate for one calendar quarter, and

1 the new tax rate takes effect on the first day of the calendar
2 quarter that follows the elapsed quarter.

3 Sec. 328.105. INAPPLICABILITY OF TAX RATE LIMITATIONS. A
4 tax imposed under this chapter is in addition to any other sales
5 and use taxes authorized by law. If as a result of the adoption
6 of the tax under this chapter, the combined rate of all sales
7 and use taxes imposed by other political subdivisions of this
8 state having territory in the program area would exceed two
9 percent at any location in the program area, a tax imposed under
10 this chapter is not to be included in computing the combined tax
11 rate. Subsection (f) of Section 321.101 and Subsection (d) of
12 Section 323.001 do not apply to a tax imposed under this
13 chapter.

14 Sec. 328.106. DURATION OF TAX. A tax imposed under this
15 chapter may not be repealed or decreased during the term of the
16 implementing agreement for the Edwards Aquifer recovery
17 implementation program.

18 SUBCHAPTER C. COMPUTATION OF TAXES

19 Sec. 328.201. COMPUTATION OF TAXES. A tax imposed under
20 this chapter shall be computed in accordance with Subchapter C,
21 Chapter 323.

22 SUBCHAPTER D. ADMINISTRATION, REVENUE DEPOSIT, AND

23 DISTRIBUTION OF TAXES

24 Sec. 328.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES.
25 If a tax is imposed under this chapter, the comptroller is
26 responsible for the application, collection, and administration
27 of the tax under the provisions of Chapter 323, except as

1 otherwise provided by this chapter.

2 Sec. 328.302. TRUST ACCOUNT. The comptroller shall deposit
3 the taxes collected by the comptroller under this chapter in
4 trust in the separate suspense account of the board.

5 Sec. 328.303. DISTRIBUTION OF TRUST FUNDS. The comptroller
6 shall remit to the board that portion of the sales and use tax
7 revenue collected from the program area that is to be used for
8 providing financial assistance for the programs at the rate
9 imposed under this chapter as part of the regular allocation of
10 the sales and use tax revenue of other political subdivisions
11 collected by the comptroller. However, at least twice during
12 each state fiscal year and at other times as often as feasible,
13 the comptroller shall remit to the board payable to the board
14 the board's share of the taxes collected by the comptroller
15 under this chapter.

16 Sec. 328.304. STATE'S SHARE. Before remitting any money to
17 the board under this chapter, the comptroller shall deduct two
18 percent of the amount of the taxes collected within the program
19 area during the period for which a distribution is made as the
20 state's charge for its services under this chapter and shall
21 credit the money deducted to the general revenue fund.

22 Sec. 328.305. AMOUNTS RETAINED IN TRUST ACCOUNT. The
23 comptroller may retain in the suspense account of the board a
24 portion of the board's share of the tax collected for the board
25 under this chapter, not to exceed five percent of the amount
26 remitted to the board. From the amounts retained in the board's
27 suspense account, the comptroller may make refunds for

1 overpayments to the account and to redeem dishonored checks and
2 drafts deposited to the credit of the account.

3 Sec. 328.306. INTEREST ON TAX REVENUE. Interest earned on
4 all deposits made with the comptroller under this chapter,
5 including interest earned from retained suspense accounts, shall
6 be credited to the species protection program fund.

7 Sec. 328.307. CONSISTENCY IN COLLECTION PROCEDURES. A
8 retailer may not be required to use allocation and reporting
9 procedures in the collection of taxes under this chapter that
10 are different from the procedures that retailers use in the
11 collection of other sales and use taxes under this title. An
12 item, transaction, or service that is taxable in a county or
13 municipality under a sales or use tax authorized by another
14 chapter of this title is taxable under this chapter. An item,
15 transaction, or service that is not taxable in a county or
16 municipality under a sales or use tax authorized by another
17 chapter of this title is not taxable under this chapter.

18 Sec. 328.308. COMPTROLLER'S RULES. The comptroller may
19 adopt rules to administer this chapter in the same manner as for
20 a tax imposed under Chapter 323.

21 SUBCHAPTER E. TAX ELECTION PROCEDURES

22 Sec. 328.401. TAX ELECTION REQUIRED. The proposition for
23 adopting a sales and use tax under this chapter shall be
24 submitted at an election. A tax under this chapter may be
25 adopted only if the tax is approved by a majority of the
26 qualified voters of the program area voting at an election held
27 in the program area and called and held for that purpose. Except

1 as otherwise provided in this subchapter, the election shall be
2 conducted in accordance with the Election Code.

3 Sec. 328.402. CALLING OF ELECTION. (a) An election under
4 this subchapter is called by the adoption of an order calling a
5 joint election by a vote of a majority of the members of the
6 governing bodies of the authorities.

7 (b) Except as provided in Subsection (c), an order for a
8 joint election shall be adopted and the election for the sales
9 and use tax proposition shall be conducted by the:

10 (1) Guadalupe-Blanco River Authority for the part of
11 the program area within its jurisdiction;

12 (2) San Antonio River Authority for the part of the
13 program area within its jurisdiction; and

14 (3) Authority for the part of the program area within
15 its jurisdiction.

16 (c) For an area of jurisdictional overlap between the
17 Guadalupe-Blanco River Authority or the San Antonio River
18 Authority and the Authority, the Authority will adopt the order
19 and conduct the election for that part of the program area
20 within the Authority's jurisdiction.

21 Sec. 328.403. TIME OF ELECTION. An election to adopt a tax
22 under this chapter may not be held earlier than the uniform
23 election date for November 2011.

24 Sec. 328.404. ELECTION ORDER. The order calling a joint
25 election under this subchapter must state:

26 (1) the name of the entity calling the election;

27 (2) the part of the program area covered by the

1 election order;

2 (3) a statement that the sales and use tax may be
3 adopted only if the tax is approved by a majority of the
4 qualified voters of the entirety of the program area;

5 (4) the nature of the election, including the
6 proposition that is to appear on the ballot;

7 (5) the date of the election;

8 (6) the hours during which the polls will be open;

9 (7) the location of the polling places;

10 (8) the proposed rate of the sales and use tax for the
11 program area; and

12 (9) any other information as may be required by the
13 Election Code.

14 Sec. 328.405. NOTICE OF ELECTION. In addition to the notice
15 required by Section 4.003(c), Election Code, the authorities
16 shall give notice of the joint election to adopt the sales and
17 use tax under this chapter by publishing a substantial copy of
18 the joint election order in a newspaper with general circulation
19 in each county of the program area once a week for two
20 consecutive weeks. The first publication must appear not earlier
21 than the 30th day before the date set for the election.

22 Sec. 328.406. BALLOT WORDING. In an election to adopt a
23 sales and use tax under this chapter, the ballot shall be
24 printed to provide for voting for or against the proposition: "A
25 one-quarter of one percent sales and use tax is adopted within
26 the species protection program area to provide funds to the
27 Texas Water Development Board only for the purpose of providing

1 financial assistance for the implementation of the species
2 protection programs in accordance with Subchapter N, Chapter 17,
3 Water Code, for the Edwards Aquifer recovery implementation
4 program and the Guadalupe River basin, San Antonio River basin,
5 and San Antonio Bay and estuary system environmental flows
6 program."

7 Sec. 328.407. PRELIMINARY CANVASSING OF RETURNS. In
8 accordance with Chapter 67, Election Code, the governing bodies
9 of the authorities shall meet separately and canvass the returns
10 of the joint election for their respective parts of the program
11 area by resolution and order entered in its minutes of
12 proceedings and declare the results of the election for their
13 respective parts of the program area. A resolution and order
14 under this section must include the showing:

15 (1) the name of the entity calling the election;

16 (2) the part of the program area covered by the
17 canvassing resolution and order;

18 (3) a statement that the tax under this chapter may be
19 adopted only if the tax is approved by a majority of the
20 qualified voters of the entirety of the program area, and that
21 the cumulative results of all canvassing resolution and orders
22 are to be canvassed and finally declared by the board;

23 (4) the date of the election;

24 (5) the proposition on which the vote was held; and

25 (6) the total number of votes cast for and against the
26 proposition.

27 Sec. 328.408. OFFICIAL RESULTS OF ELECTION. The governing

1 bodies of the authorities shall send to the board by United
2 States certified or registered mail a certified copy of the
3 canvassing resolution and order for the election conducted in
4 their respective parts of the program area, and a map of the
5 respective part of the program area for which the canvassing
6 resolution and order applies. Within ten days after the receipt
7 of all of the canvassing resolutions and orders of the
8 authorities, the board shall meet and canvass the cumulative
9 returns for the joint election for the entire program area by
10 resolution and order entered in its minutes of proceedings and
11 declare the final cumulative results of the election. A
12 resolution and order under this section must include statements
13 showing:

14 (1) the name of the entities calling the joint
15 election;

16 (2) the part of the program area covered by each
17 canvassing resolution and order of the authorities;

18 (3) a statement that the tax under this chapter may
19 be adopted only if the tax is approved by a majority of the
20 qualified voters of the entirety of the program area, and that
21 the results of all of the authorities' canvassing resolution and
22 orders are to be cumulated for final canvassing by the board;

23 (4) the date of the election;

24 (5) the proposition on which the vote was held;

25 (6) the total number of votes cast for and against the
26 proposition; and

27 (7) the number of votes by which the proposition was

1 approved or rejected.

2 Sec. 328.409. NOTICE TO COMPTROLLER. If the application of
3 the sales and use taxes that may be imposed under this chapter
4 is changed by the results of the joint election, the board shall
5 send to the comptroller by United States certified or registered
6 mail a certified copy of the board's final canvassing resolution
7 and order, and a map of the program area in which the tax is to
8 be imposed.

9 Sec. 328.410. COMPTROLLER ADMINISTRATION NOTICE. (a) Not
10 later than the 30th day after the date the comptroller receives
11 a certified copy of the board's final canvassing resolution and
12 order showing the adoption of the sales and use tax under this
13 chapter, the comptroller shall notify the board and the
14 authorities that the comptroller is prepared for the
15 administration of the tax imposed and effective under Subsection
16 (a) of Section 328.104.

17 (b) Not later than the 30th day after the date the
18 comptroller receives a certified copy of the notice of
19 additional measures issued under Section 17.1008, Water Code, or
20 the notice of approval of the work plan issued under Subsection
21 (t) of Section 11.02362, Water Code, the comptroller shall
22 notify the board and the authorities that the comptroller is
23 prepared for the administration of the tax imposed and effective
24 under Subsection (b) of Section 328.104.

25 Sec. 328.411. FREQUENCY OF ELECTION. If less than a
26 majority of the votes are cast in favor of the adoption of the
27 tax, the authorities may not order another joint election on the

1 matter to be held earlier than one year after the date of the
2 preceding election.

3 Sec. 329.412. ELECTION CONTEST: NOTICE. If an election held
4 under this subchapter is contested, the contestant shall send to
5 the comptroller, the board, and the authorities by United States
6 certified or registered mail within 10 days after the filing of
7 the contest a notice of contest containing the style of the
8 suit, the date it was filed, its case number, and the name of
9 the court in which the contest is pending. A court may not hear
10 an election contest of an election held under this subchapter
11 unless the comptroller, the board, and the authorities are
12 notified within the time and in the manner provided by this
13 section.

14 Sec. 328.413. ELECTION CONTEST: DELAYED EFFECTIVE DATE.
15 When the comptroller receives a notice of contest of an election
16 under this subchapter, the effective date of the tax is
17 suspended. When a final judgment is entered in the election
18 contest, the governing body of a party to the election contest
19 shall notify the comptroller by United States certified or
20 registered mail and enclose a certified copy of the final
21 judgment. If the final judgment in the election contest results
22 in a change in the tax status of the program area under this
23 chapter, the tax takes effect as provided by Section 328.104
24 except that the notice of the final judgment is substituted for
25 the notice of election results prescribed by Section 328.409.

26 Sec. 328.414. ELECTION COSTS. The cost of an election held
27 under this subchapter shall be borne by the authorities for

1 their respective parts of the program area. For an area of
2 jurisdictional overlap between the Guadalupe-Blanco River
3 Authority or the San Antonio River Authority and the Authority,
4 the Authority will bear the cost of conducting the election for
5 that part of the program area within the Authority's
6 jurisdiction.

7 SECTION 3. Chapter 17, Water Code, is amended by adding
8 Subchapter N to read as follows:

9 SUBCHAPTER N. FINANCIAL ASSISTANCE TO THE SPECIES PROTECTION
10 PROGRAMS FOR THE EDWARDS AQUIFER RECOVERY IMPLEMENTATION PROGRAM
11 AND THE GUADALUPE RIVER BASIN, SAN ANTONIO RIVER BASIN, AND SAN
12 ANTONIO BAY AND ESTUARY SYSTEM ENVIRONMENTAL FLOWS PROGRAM

13 Sec. 17.1001. DEFINITIONS. In this subchapter:

14 (1) "Adaptive decision-making process" means the procedures
15 incorporated into and made a part of the implementing agreement
16 that provide for an integrated, structured, and interactive
17 decision-making process to review and evaluate the results of
18 the monitoring and research programs that allows for adjusting
19 previous decisions made for the Edwards Aquifer recovery
20 implementation program regarding the appropriate species
21 protection measures in light of the results of the monitoring
22 program and other sources of new data and information.

23 (2) "Adaptive management plan" means the plan incorporated
24 into and made a part of the implementing agreement for examining
25 alternative strategies for meeting measurable biologic goals and
26 objectives, and then, if necessary, adjusting future species
27 protection measures according to what is learned.

1 (3) "Advisory group" means the environmental flows
2 advisory group established by Section 11.0236, Water Code.

3 (4) "Authority" means the Edwards Aquifer Authority
4 established by Chapter 626, Acts of the 73rd Legislature,
5 Regular Session, 1993.

6 (5) "Edwards Aquifer" has the meaning assigned by Section
7 1.03(1) of Article 1, Chapter 626, Acts of the 73rd Legislature,
8 Regular Session, 1993, as amended.

9 (6) "Edwards Aquifer recovery implementation program"
10 means the program developed pursuant to Section 1.26A of Article
11 1, Chapter 626, Acts of the 73rd Legislature, Regular Session,
12 1993, as amended, for the Edwards Aquifer for the protection of
13 the plan species.

14 (7) "Financial assistance" means the money provided from
15 the fund under this subchapter by the board for the purposes in
16 Subsection (c) of Section 17.1002.

17 (8) "Fund" as used in this subchapter means the species
18 protection program fund created by Section 17.1002.

19 (9) "Guadalupe-Blanco River Authority" means the river
20 authority established by Chapter 75, Acts of the 43rd
21 Legislature, 1st Called Session, 1933, as amended.

22 (10) "Guadalupe River basin" means the geographical extent
23 of the river basin as delineated by Subsection (r) of Section
24 360.3, 31 Texas Administrative Code, and within the jurisdiction
25 of the Guadalupe-Blanco River Authority.

26 (11) "Guadalupe River basin, San Antonio River basin, and
27 San Antonio Bay and estuary system environmental flows program"

1 means the environmental flows program developed pursuant to
2 Article 1, Chapter 1430, Acts of the 80th Legislature, Regular
3 Session, 2007, as amended, for the Guadalupe River basin, San
4 Antonio River basin, and San Antonio Bay and estuary system for,
5 among other things, the protection of the species of concern.

6 (12) "Implementing agreement" means the agreement that
7 legally binds the permittee(s) to the requirements and
8 responsibilities of the habitat conservation plan and incidental
9 take permit approved and issued pursuant to Section 10 of the
10 federal Endangered Species Act of 1973 (16 U.S.C. Section 1531
11 et seq.), as amended, for the Edwards Aquifer recovery
12 implementation program, and any amendments, replacements, or
13 renewals thereof.

14 (13) "Party to the implementing agreement" means any person
15 who has entered into and executed the implementing agreement.

16 (14) "Person" means any legal entity, including a
17 corporation, partnership, association, nonprofit organization,
18 state agency, city, county, or district or authority created
19 under Article III, Section 52, or Article XVI, Section 59, of
20 the Texas Constitution.

21 (15) "Plan species" means the species identified in the
22 implementing agreement.

23 (16) "San Antonio River Authority" means the river
24 authority established by Chapter 276, Acts of the 45th
25 Legislature, Regular Session, 1937.

26 (17) "San Antonio River basin" means the geographical
27 extent of the river basin as delineated by Subsection (s) of

1 Section 360.3, 31 Texas Administrative Code, and within the
2 jurisdiction of the San Antonio River Authority.

3 (18) "San Antonio Bay and estuary system" means the
4 geographical extent of the bay and estuary system having a
5 hydrologic interrelationship with the Guadalupe River and San
6 Antonio River basins, separated from the Gulf of Mexico by
7 Matagorda Island, and composed of those interconnected bodies of
8 water known as Hynes Bay, Mission Lake, and Guadalupe Bay in the
9 northwest, Ayres and Mesquite Bays to the southwest, and
10 Espiritu Santo Bay to the east.

11 (19) "Species of concern" means species located in the
12 Guadalupe River basin, the San Antonio River basin, and the San
13 Antonio Bay and estuary system that are:

14 (A) listed as threatened or endangered pursuant to
15 Section 4 of the federal Endangered Species Act of 1973 (16
16 U.S.C. Section 1531 et seq.), as amended;

17 (B) listed by the state as threatened or endangered
18 under Sections 65.175, 65.176, and 69.8, 31 Texas Administrative
19 Code; or

20 (C) determined by the advisory group, or the
21 Guadalupe-Blanco River Authority and the San Antonio River
22 Authority to be at-risk because of declines in populations or
23 habitat, or are otherwise in need of concentrated conservation
24 actions.

25 (20) "Species protection measure" means the activities
26 incorporated into and made a part of the implementing agreement
27 to:

1 (A) manage water in and withdrawn from the Edwards
2 Aquifer, and water discharging from Comal Springs and San Marcos
3 Springs, for the protection of the plan species;

4 (B) restore the habitat of the plan species;

5 (C) minimize and mitigate the impact of the adverse
6 effects of the activities covered by the incidental take permit
7 issued for the Edwards Aquifer recovery implementation program;

8 (D) implementation of the adaptive management plan;
9 and

10 (E) implementation the adaptive decision-making
11 process.

12 (21) "Stakeholder committee" means the committee
13 established by Subsection (d) of Section 11.02362, Water Code,
14 to oversee, review, and coordinate the activities of the
15 Guadalupe River basin, San Antonio River basin, and San Antonio
16 Bay and estuary system environmental flows program.

17 (22) "Work plan" means the document required to be prepared
18 for the Guadalupe River basin, San Antonio River basin, and San
19 Antonio Bay and estuary system environmental flows program by
20 the stakeholder committee and submitted to the advisory group
21 for approval pursuant to Subsection (p) of Section 11.02362,
22 Water Code, that makes recommendations regarding environmental
23 flow standards and strategies and projects to meet these
24 standards; prioritizes the strategies and projects; provides for
25 a periodic review to occur at least once every 10 years of the
26 environmental flow analyses and environmental flow regime
27 recommendations, environmental flow standards, and strategies;

1 prescribes specific monitoring, studies and activities; and
2 establishes a schedule for continuing the validation or
3 refinement of the environmental flow analysis and environmental
4 flow regime recommendation, the environmental flow standards
5 adopted by the Texas Commission on Environmental Quality, and
6 the strategies to achieve those standards.

7 Sec. 17.1002. FUND CREATED. (a) There is created within
8 the state treasury a special fund known as the species
9 protection program fund and the fund shall be administered by
10 the board in accordance with this subchapter.

11 (b) The fund shall consist of:

12 (1) the revenue from the species protection sales and
13 use tax imposed under Chapter 328, Tax Code; and

14 (2) earnings on the investment of money credited to
15 the fund.

16 (c) The fund may be used by the board to provide financial
17 assistance for:

18 (1) the implementation of species protection measures
19 for the Edwards Aquifer recovery implementation program;

20 (2) the implementation of the adaptive management
21 plan for the Edwards Aquifer recovery implementation program;

22 (3) research and planning costs associated with the
23 implementation of species protection measures or the adaptive
24 management plan, including planning, engineering, architectural,
25 legal, title, fiscal, economic, and any other study, survey,
26 design, or research and investigation;

1 (4) providing funds for the state's participation in
2 any federal program that may provide funding for the Edwards
3 Aquifer recovery implementation program;

4 (5) research, planning, development, and preparation
5 costs of the work plan for the Guadalupe River basin, San
6 Antonio River basin, and the San Antonio Bay and estuary system
7 environmental flows program; or

8 (6) water projects in the Guadalupe River basin, the
9 San Antonio River basin, or San Antonio Bay and estuary system
10 related to species of concern as recommended in the approved
11 work plan, or as approved by the Guadalupe-Blanco River
12 Authority and the San Antonio River Authority.

13 (d) Subject to the requirement of Subsection (e), when
14 taking action on applications for financial assistance under
15 Section 17.1006, the board shall give priority to providing
16 financial assistance for the purposes in Subsection (c)(1)-(4)
17 of this section.

18 (e) The board shall provide financial assistance for the
19 purposes in Subsection (c)(5)-(6) of this section in an amount
20 not less than \$1,500,000 per calendar year.

21 Sec. 17.1003. MANAGEMENT OF FUND. (a) The board shall
22 deposit in the fund all amounts remitted from the comptroller to
23 the board under Chapter 328, Tax Code.

24 (b) The board shall provide financial assistance to an
25 applicant from money in the fund only in accordance with this
26 subchapter. The board may not make financial assistance
27 available under this subchapter from any other fund.

1 (c) Money in the fund may be used only for financial
2 assistance for the purposes stated in Subsection (c) of Section
3 17.1002.

4 (d) The board may use money in the fund to provide
5 financial assistance in the form of a grant. If the board
6 approves an application under Section 17.1006, it shall enter
7 into a grant agreement not later than 30 days after it takes
8 final action on the application and promptly remit the amount of
9 the approved financial assistance to the applicant. The Uniform
10 Grant and Contract Management Act (Chapter 783, Government Code)
11 does not apply to financial assistance provided under this
12 subchapter.

13 (e) Disbursements from the fund for applications for
14 financial assistance approved under Section 17.1006 in calendar
15 year 2012 may not be made by the board until January 2013.

16 (f) The board shall invest, reinvest, and direct the
17 investment of money accumulated in the fund.

18 (g) Sections 403.095 and 404.071, Government Code, do not
19 apply to the fund.

20 (h) The board by rule may set a fee at an amount necessary
21 to recover the costs incurred by the board in administering the
22 fund. Fees set by the board may not exceed the cost to the board
23 of performing the administrative functions necessary for the
24 administration of the fund. The fee may be deducted from the
25 fund on an annual basis as determined by the board. The board
26 shall not set a fee for the filing of an application for
27 financial assistance under this subchapter.

1 Sec. 17.1004 ELIGIBLE APPLICANT. (a) For applications for
2 financial assistance for the purposes provided for in
3 Subsections (c)(1)-(4) of Section 17.1002, the following persons
4 may file an application for financial assistance under this
5 subchapter:

6 (1) the Authority; or

7 (2) a party to the implementing agreement authorized
8 in to file an application for financial assistance.

9 (b) For applications for financial assistance for the
10 purposes provided for in Subsections (c)(5)-(6) of Section
11 17.1002, the following persons may file an application for
12 financial assistance under this subchapter:

13 (1) the Guadalupe-Blanco River Authority; or

14 (2) the San Antonio River Authority.

15 Sec. 17.1005. APPLICATION FOR FINANCIAL ASSISTANCE. (a) An
16 application to the board for financial assistance under this
17 subchapter shall be filed in writing in affidavit form.

18 (b) The application shall include:

19 (1) the name and contact information of the applicant
20 and its principal officers;

21 (2) a resolution of the applicant representing that
22 the filing of the application has been duly authorized by the
23 governing body or other appropriate official of the applicant;

24 (3) a description of the purposes for which financial
25 assistance is applied for under Subsection (c) of Section
26 17.1002;

27 (4) for applications for financial assistance for the

1 purposes provided for in Subsections (c)(1)-(4) of Section
2 17.1002, a statement that the implementing agreement, habitat
3 conservation plan, incidental take permit, or other appropriate
4 regulatory document, authorizes the proposed activity to be
5 performed;

6 (5) for applications for financial assistance for the
7 purposes provided for in Subsections (c)(5)-(6) of Section
8 17.1002:

9 (A) a statement that the financial assistance is
10 for researching, planning, developing, and preparing the work
11 plan for the Guadalupe River basin, San Antonio River basin, and
12 the San Antonio Bay and estuary system environmental flows
13 program; or

14 (B) a description of a water project
15 demonstrating that:

16 (i) the project is in the Guadalupe River
17 basin, the San Antonio River basin, or San Antonio Bay and
18 estuary system;

19 (ii) relates to species of concern; and

20 (iii) the approved work plan, or the action
21 of the Guadalupe-Blanco River Authority and the San Antonio
22 River Authority, authorizes the proposed water project to be
23 performed;

24 (6) citations to all appropriate documents as may be
25 requested by the board demonstrating that the proposed activity
26 is authorized to be performed;

27 (7) a brief action plan for the proposed activity for

1 the period for which financial assistance is sought;

2 (8) a budget showing the estimated total cost of the
3 proposed activity, and the amount anticipated to be expended for
4 the period for which financial assistance is sought; and

5 (9) the amount of financial assistance requested.

6 (c) An application for financial assistance must be filed
7 with the board no later than September 30th of the calendar year
8 preceding the calendar year for which financial assistance is
9 sought.

10 Sec. 17.1006. ACTION ON THE APPLICATION. (a) If the
11 applicant demonstrates the following considerations, the board
12 shall approve the application as filed:

13 (1) the applicant is eligible to file an application
14 for financial assistance under Section 17.1004;

15 (2) the applicant is authorized to file the
16 application;

17 (3) the proposed activity is authorized for financial
18 assistance in Subsection (c) of Section 17.1002;

19 (4) the proposed activity is authorized to be
20 performed by the implementing agreement or work plan, or other
21 approval, as may be applicable;

22 (5) the action plan describes the proposed activity
23 for the period for which financial assistance is sought;

24 (6) the budget states the estimated total costs of
25 the proposed activities and the amount anticipated to be
26 expended for the period for which financial assistance is
27 sought;

1 (7) the fund balance is sufficient to provide
2 financial assistance in the applied for amount; and

3 (8) for applications for financial assistance for the
4 purposes provided for in Subsections (c)(5)-(6) of Section
5 17.1002, the board finds that, subject to the requirements of
6 Subsection (e) of Section 17.1002, the board has given priority
7 to applications for financial assistance for the purposes in
8 Subsection (c)(1)-(4) for the calendar year for which financial
9 assistance has been sought.

10 (b) The board may withhold action on an application if it
11 identifies a consideration in Subsection (a) of this section
12 that is deficient and allows reasonable time for the filing of
13 additional information before the application is reconsidered
14 for final action. If the reason for withholding action is the
15 insufficiency of money in the fund, the board shall advise the
16 applicant and withhold action on the application until
17 sufficient money is available.

18 (c) The board may deny an application only if it finds
19 that the considerations in Subsection (a) of this section cannot
20 be established and provide a written statement of the reasons
21 and justification for the decision.

22 (d) The board shall notify the applicant in writing of its
23 decision on the application.

24 (e) The board may delegate to the executive administrator
25 its authority to take action on an application under this
26 subchapter.

27 Sec. 17.1007. APPLICATION AMENDMENT. (a) An application for

1 financial assistance filed under this subchapter may be amended
2 in writing with a request to the board to take action on the
3 application as amended.

4 (b) The board shall take action on the amended application
5 in the same manner as provided for the original application
6 under Section 17.1006.

7 Sec. 17.1008. NOTICE OF ADDITIONAL MEASURES. (a) If at any
8 time during the term of the implementing agreement the Authority
9 determines that additional species protection measures are
10 required to achieve the biological goals of the Edwards Aquifer
11 recovery implementation program, and that additional financial
12 assistance is required to fund the additional measures, the
13 Authority shall give notice to the board and the comptroller
14 that additional measures are required. The notice under this
15 section shall be sent to the board and the comptroller by United
16 States certified or registered mail.

17 (b) The notice shall include the following:

18 (1) a summary of the findings of the adaptive
19 management plan;

20 (2) a description of the alternative measures that are
21 recommended to be implemented in addition to, or instead of, the
22 species protection measures that are being implemented pursuant
23 to the implementing agreement;

24 (3) a summary of the results of the adaptive
25 decision-making process; and

26 (4) a certified copy of the final decision by the
27 United States Fish and Wildlife Service that the additional

1 species protection measures are required and that they are
2 approved for implementation by the Edwards Aquifer recovery
3 implementation program.

4 Sec. 17.1010. REPORT. No later than April 1 of each
5 calendar year, the Authority shall prepare and file with the
6 board a report of:

7 (1) the preceding year's activities to implement the
8 Edwards Aquifer recovery implementation program;

9 (2) the activities that are scheduled for the next year;
10 and

11 (3) the amount of financial assistance that will likely be
12 applied for in the next two years.

13 SECTION 4. Section 11.02362, Water Code, is amended by
14 adding Subsection (t) read as follows:

15 (t) Upon approval by the advisory group of the work plan
16 for the river basin and bay system consisting of the Guadalupe
17 River basin, the San Antonio River basin, and the San Antonio
18 Bay and estuary system, the advisory group shall send to the
19 comptroller by United States certified or registered mail a
20 certified copy of the advisory group's approval action, and a
21 map of these river basins and bay system.

22 SECTION 5. EFFECTIVE DATES. This Act takes effect
23 immediately if it receives a vote of two-thirds of all the
24 members elected to each house, as provided by Section 39,
25 Article III, Texas Constitution. If this Act does not receive
26 the vote necessary for immediate effect, this Act takes effect
27 September 1, 2011.

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President of the Senate Speaker of the House

I hereby certify that __.B. No. ____ passed the Senate on
_____, by the following vote: Yeas ____, Nays ____.

Secretary of the Senate

I hereby certify that __.B. No. ____ passed the House on
____ ____, 2011, by the following vote: Yeas ____, Nays ____,
one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Executive Committee

Date: 03/09/2011

State and Federal Legislative Activities Update

Submitted For: Brian Mast

Submitted By: Lupe Sanchez

Division: Intergovernmental and Comm Relations **Department:** Intergovernmental Relations

CAPTION

PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING ACTIVITIES ASSOCIATED WITH THE 82ND SESSION OF THE STATE LEGISLATURE AND THE 112TH CONGRESS

Presenter

Brian Mast

Estimated Presentation Time: 20 minutes

82nd State Legislature Update:

Public hearings for committees have begun. In the House of Representatives, the Natural Resources committee met once on February 22, 2011, to hear testimony from the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ). No action was taken at this time. The next committee meeting was held on Tuesday, March 1, 2011. During this meeting, the committee discussed 11 bills.

During the trip to the capitol on February 15, 2011, Board Member Michael Lackey and Steven Schauer met with Representative Eddie Lucio III. During the meeting, SARA expressed its support of HB 451 that the representative filed this session. This bill would create a “Don’t Mess with Texas Water” program to prevent illegal dumping. The bill would establish placing signs on major highway water crossings to notify drivers of a toll-free number to report illegal dumping. Local government entities would also be able to work with TCEQ on the project by way of contributing dollars to the cost of operating the toll-free hotline. Representative Lucio III requested SARA to provide testimony to the committee on March 1, to which Luke Habenicht represented SARA and provided public testimony in favor of the bill.

In the Senate, the Natural Resources Committee met once on February 15, 2011, in a joint hearing with the Senate Committee on Business and Commerce to discuss the rolling black-outs of February 2-4, 2011. This joint committee met with representatives from various energy entities, including the Electric Reliability Council of Texas (ERCOT), as well as TCEQ. The Natural Resources Committee met again on Tuesday, March 1, 2011, and heard public testimony in reference to two bills: SB 332 by Fraser and SB 667 by Duncan.

Bill tracking is continuing. At this point, bills on the tracking list have only been referred to committees. The upcoming committee schedules will include discussion on these bills and updates will be given.

112th Federal Congress Update:

Board Members Tom Weaver and Adair Sutherland, along with Suzanne Scott and Steven Schauer, will be traveling to Washington, D.C., from March 30 to April 1 to meet with targeted federal agencies and Congressional members to discuss issues relevant to the River Authority.

Recommendation

Motion to be crafted, if necessary, after Board discussion.

Discussion

Vote

Executive Committee

Date: 03/09/2011

Executive Session: Whooping Crane Lawsuit

Submitted For: Karen Bishop

Submitted By: Lupe Sanchez

Division: Executive Offices

CAPTION

**EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071
FOR CONSULTATION WITH ATTORNEY REGARDING THE ARANSAS PROJECT V.
SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT**

Presenter

Steve Raabe and David Ross

Estimated Presentation Time: 10 minutes

Discussion

Executive Committee

Date: 03/09/2011

Whooping Crane Lawsuit Briefing

Submitted For: Karen Bishop

Submitted By: Lupe Sanchez

Division: Executive Offices

CAPTION

PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE ARANSAS PROJECT V. SHAW, ET. AL., CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Presenter

Steve Raabe and David Ross

Estimated Presentation Time: 10 minutes

Recommendation

Motion to be crafted, if necessary, after Board discussion.

Discussion

Vote

Executive Committee

Individual Items 12. - 14.

Date: 03/09/2011

GM's Report / Items for Future Consideration / Next Meeting Date

Submitted For: Suzanne B. Scott

Submitted By: Lupe Sanchez

Division: Executive Offices

Information

12.

CAPTION

GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- **UPCOMING EVENTS CALENDAR,**
- **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
- **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**

Presenter

Suzanne B. Scott

Estimated Presentation Time: 10 minutes

Discussion

Information

13.

CAPTION

ITEMS FOR FUTURE CONSIDERATION

Presenter

Mr. Oehlke, Committee Chair

Estimated Presentation Time: 5 minutes

Discussion

Information

14.

CAPTION

NEXT MEETING DATE

Presenter

Mr. Oehlke, Committee Chair

Estimated Presentation Time: 5 minutes

Unless otherwise decided by the Committee, the next Executive Committee meeting will be Wednesday, April 13, 2011, at 1:00 p.m.

Discussion

Executive Committee

Item #: 15.

Date: 03/09/2011

Adjourn

Submitted By: Lupe Sanchez

Division: Executive Offices

CAPTION

ADJOURN

Presenter

Mr. Oehlke, Committee Chairman
