

April 11, 2025

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Attn: Honorable Cody Harris  
Chair, House Natural Resources Committee  
Room E2.504  
P.O. Box 2910  
Austin, Texas 78768

Via E-mail  
Cody.harris@house.texas.gov

Re: HB 2812 by Representative Isaac

Dear Chairman Harris:

On behalf of the Board of Directors of the Wimberley Water Supply Corporation (“WWSC”), I am writing to provide you with comments on Representative Isaac’s HB 2812. HB 2812 would exempt from permitting and regulating “public water supply wells” drilled and completed within the jurisdiction of the Hays Trinity Groundwater Conservation District (“HTGCD”).

WWSC strongly supports the portion of HB 2812 that would provide substantial relief to the over-regulation by HTGCD that currently impairs WWSC’s operations, which left unchecked pose a serious concern to WWSC and its customers. These concerns are primarily twofold – first is HTGCD effectively taking away WWSC legally permitted water rights through its arbitrary curtailments. Secondly, it then assesses unfair and unreasonable fines in the event of pumping water in excess of their curtailed amounts, even if pumping less than WWSC’s legal permitted amounts – a fine that WWSC customers must pay.

WWSC is a retail water utility operating as a nonprofit water supply corporation in western Hays County. Headquartered in Wimberley, Texas, WWSC’s service area is defined by Certificate of Convenience and Necessity No. 10314 (the “CCN”). WWSC supplies 1,850 retail customer connections within its 32 square-mile service area. Our sole source of water is groundwater produced from the Middle Trinity Aquifer in Hays County. WWSC owns and operates six (6) wells authorized by permits issued by HTGCD.

WWSC has no access to surface water sources at this time. As a small rural utility its revenue sources are limited. Accordingly, the ability to source additional water is even further hampered.

WWSC recognizes the need to properly manage and conserve this precious resource and is very aggressive in its water conservation efforts, which include but are not limited to:

- A Drought Contingency Plan that places restrictions on customer water use. WWSC has been under Stage 4 restrictions since August 2023 and even in non-drought conditions places permanent year-round restrictions on water use.
- Significant capital expenditures to repair, replace and enhance our infrastructure.
- 24-Hour on-call to timely repair broken water lines.

- Communication procedures with customers to identify customer leaks or over usage through “exceptional” use reporting.
- Allowing no bulk water sales or out-of-district sales.
- A tiered rate structure that increases from \$3 per thousand gallons for low volume users up to \$15 per thousand gallons for high volume users to encourage conservation.

One needs to recognize that under WWSC’s CCN it is required to provide “continuous and adequate water supply service” to its customers as mandated by Chapter 13 of the Texas Water Code and the applicable rules of the Texas Public Utility Commission and the Texas Commission on Environmental Quality (“PUC” / “TCEQ”). In order to satisfy that requirement, WWSC has a permit issued by HTGCD for 750-acre feet per year.

HB 2812 was motivated by the following regulatory actions of HTGCD:

1. Based upon its unorthodox methodology for determining a need to curtail groundwater production during drought conditions based upon factors other than scientifically supported data reflecting stress on the Aquifer, the District imposes harsh curtailment requirements on permittee pumping, *e.g.*, 30% to 40% curtailment. Under HTGCD’s “drought regulations” the curtailment periods are virtually impossible to terminate; and
2. During the periods of District declared drought, the HTGCD refuses (i) to allow the filing, processing or granting on any new permit application, and (ii) to allow the drilling of any new non-exempt well.

Based upon the existing demand within its CCN, and the unprecedented growth in Hays County, WWSC cannot comply with both its statutory duties as a public water utility and the honor the HTGCD curtailment mandates.

WWSC believes that HTGCD regularly exceeds its legislative authority to regulate groundwater within its jurisdiction. This is particularly true to the extent that such regulation inappropriately interferes with and penalizes a well-managed, conservation minded, public water utility like WWSC.

A real life example is the fact that HTGCD’s 40% curtailment effectively takes away WWSC’s permitted water rights. WWSC believes that these restrictions are arbitrary and do not reflect actual science (for example using river flow rates, rather than aquifer levels, as “triggers” to determine drought and curtailment percentages). HTGCD’s regulations do not factor in the legal requirements to provide service or other considerations that could lead to a reasonable expectation of curtailments of household water usage for WWSC customers. Nor do the regulations factor in growth – and Hays County is rapidly growing.

The District exacerbates the issue by imposing harsh fines on public utilities providing water service following the State mandate to provide continuous and adequate service if in doing so the utility fails to comply with HTGCD’s 40% curtailment. This is true even where the utility has implemented water use restrictions and conservation measures, but has limited ability (i) to

force customers to reduce their reasonable use of water which is sourced from groundwater permitted by the District, and (ii) no chance to secure additional permits from HTGCD due to its current moratorium on new permits.


Additionally, the Notice of Alleged Violation (“NOAV”) process HTGCD uses to impose penalties is unfair. Utilities complying with State law under Chapter 13, Texas Water Code, are assessed a fine for pumping over the HTGCD curtailment amount, even if the volume used is less than the utility’s permitted amount. Under HTGCD rules, which have changed and not consistently applied, HTGCD should enter good faith negotiations to settle such proposed fines. These negotiations should factor in conservation efforts of the affected utility. WWSC has found HTGCD to be unfair, unreasonable, and inconsistent in such matters. Payment of the fines use WWSC’s financial resources that otherwise could have been applied to conservation related initiatives like funding additional system repairs or upgrades, conservation oriented educational programs, or development of additional water supply resources.

We wanted to bring these facts to the Legislature’s attention and request that you carefully consider the merits of HB 2812, especially as it relates to over-regulation by HTGCD.

Thank you for your attention to this matter. Any assistance you can provide to WWSC and the other similarly situated retail public utilities subject to the jurisdiction of HTGCD would be greatly appreciated.

Sincerely,

WIMBERLEY WATER SUPPLY CORPORATION

  
By: Matt Meeks,  
President, Board of Directors

cc: via e-mail

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