

The Bandera PROPHEET

June 18, 2021

Water Bills: Making Sausage in Austin

By Milan J. Michalec
Special to the Prophet

In a 1933 textbook “Government in the United States” the author invoked the sage advice of Otto von Bismarck: “The man who wishes to keep his respect for sausages and laws should not see how either is made.”

In the early days of the 87th Legislature, House Bill (HB) 3883 was introduced by Representative Kyle Biedermann. The bill could have given commissioners some additional tools to help manage the proliferation of subdivisions in the unincorporated areas of the county. Because the bill was written for the counties within the Hill Country Priority Groundwater Management Area (PGMA), it could have applied to all of Bandera, Blanco, Gillespie, Kendall and Kerr Counties, as well as parts of Bexar, Comal, Hays and Travis Counties.

However, this local control could only be exercised if, after petition to the court, a majority of voters in a specific county approved.

Developments in Kendall County typically require out-of-county water from Canyon Reservoir, first available in 2006, along with local groundwater from the Trinity Aquifer. This was why the PGMA boundary was used.

This made perfect sense to the entire Commissioners Court and all Directors at the Cow Creek Groundwater Conservation District. The result was a consolidated effort to support the bill.

At the public hearing for the bill, a group of seven testified in person before the House Committee on Land & Resource Management. They

were joined by 16 others who were on a Zoom call and all were “FOR” the bill.

Only one person gave personal testimony “Against” the bill—a spokesman for the Texas Association of Builders (TAB).

In fact, a total of 141 citizens submitted written public comments on HB 3883 through the House website and all were “FOR” it.

Following this committee meeting, the sausage making began and a substitute bill intended to placate the issues raised by TAB was drafted. Despite this effort, the bill remained there because a majority vote could not be secured, this killed the bill.

But it wasn’t the only one impacted by the influence of TAB.

After a successful vote in the House of 82-61, House Bill (HB) 4146 by Representative Tracy King looked like it would have a favorable chance of becoming law.

This bill was written to protect pristine waterways—streams that begin as springs of crystal-clear water and stay that way because they have no detectable levels of phosphorous—a product of treated wastewater. It would prohibit the Texas Commission on Environmental Quality (TCEQ) from issuing new permits for direct discharge of wastewater into a small number of stream sections.

Just like HB 3883, it had broad public support. The written testimony “FOR” the bill was recorded on a file of 69 pages. Many showed up in person to testify in favor of the bill.

Just like HB 3883, TAB’s representative gave a thumbs down. In the Austin American Statesman: “Rep. King and the advocates behind the bill, their goal is worthwhile and I understand it. But ... we think there may be a better way to environmentally regulate this than a blanket prohibition.”

In reality, this was not a blanket prohibition. Supporting the advocacy of the Nueces River Authority, the Wimberley Valley Watershed Association pointed out that the bill only applied to 37 pristine stream segments. Cumulatively, this represented about 2,000 miles of creeks, rivers and streams.

According to the Texas Parks and Wildlife Department in the Texas River Guide: “There are 3,700 named streams and 15 major rivers that meander through 191,000 miles of Texas landscape.”

To pass legislation to protect these waters, a Senate vote would be required and a companion bill was introduced by Senator Judith Zaffirini —Senate Bill (SB) 1747.

This bill stayed in the Committee on Water, Agriculture and Rural Affairs without a public hearing. Just like HB 3883, SB 1747 died in committee as time ran out in the regular session of the 87th Legislature. In the making of laws in Austin, Representatives and Senators hear two voices—citizens and lobbyists.

No doubt both of these bills will be back with even more public support in two years. If they can be passed then, a pair of good laws would then be created with the public respect they deserve.

Michalec is Director, Pct. 2 and President, Cow Creek Groundwater Conservation District.