

# Legislative Update

10<sup>th</sup> Annual Burleson and Milam Counties Groundwater Summit  
July 18, 2024

Sarah Kinkle, Texas Water Conservation Association

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Robby Cook, Riceland Consulting, LLC

Adam Foster, Texas Alliance Of Groundwater Districts

# History and Purpose

Post Oak Savannah Groundwater  
Conservation District

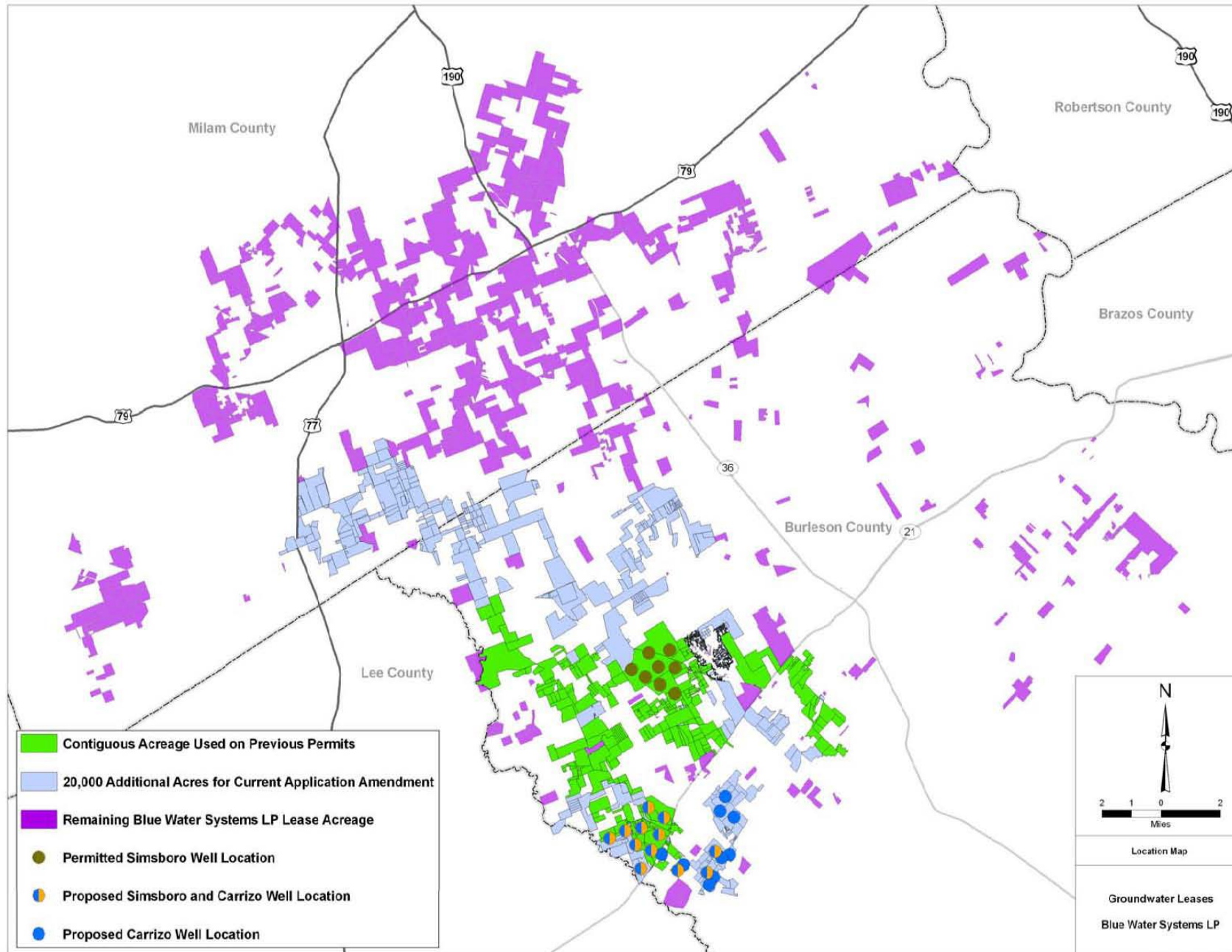


# POSGCD History

- 2001- Created by 77th Legislature (HB1784)
- 2002- Confirmed by election both counties
- 2003- Resolution for Local Water Utilities
- 2004- Adopt First Rules and Management Plan
  - Including Rule 5.5 (Local Water Utilities)
- 2005- Adopt strategies to protect aquifers
- 2010- Adopt Desired Future Conditions
- 2013- Codified by 83rd Legislature (Chapter 8865)

# POSGCD Background & Establishment

- I. Resources + Location + Growth =  
>35,000 acres water rights leased by 2000
- II. Local Concerns
  - Existing Area Users (100% Burleson County, and 90% Milam Co. rely on groundwater)
  - Municipal, Industrial, Agricultural
  - Future Growth
  - Reasonableness of Management Strategies
  - Insufficient Science
  - Unknown area future projects (in and out of District)
  - Property Rights





# Ownership of Groundwater

- TWC 36.002 states: *The groundwater ownership and rights described by this section: (1) entitle the landowner,... to drill for and produce the groundwater below the surface of real property, subject to Subsection (d), without causing waste or malicious drainage of other property or negligently causing subsidence, but does not entitle a landowner,... to the right to capture a specific amount of groundwater below the surface of that landowner's land; and (2) do not affect the existence of common law defenses or other defenses to liability under the rule of capture.*
- Subsection (d), mentioned above, states:
- *This section does not... prohibit a district from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the district,... (or) affect the ability of a district to regulate groundwater production as authorized... under this chapter...*

# District Mission Statement

The Post Oak Savannah Groundwater Conservation District mission is to adopt and enforce Rules consistent with State law and based on best available science, which provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, while supporting the ownership of groundwater and the owner's right to assign or produce that property.

# Groundwater Conservation Districts

## Authority and Purpose





# 1917 Conservation Amendment Article 16, Section 59 Texas Constitution

*“The conservation and development of all of the natural resources of this State... and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto”*



# Political Subdivisions

- GCDs are Political Subdivisions of State

(Specific authority and responsibilities in a defined geographic area)

"Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a **district or authority** created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 67. (*Ch. 36.001*)

- Created by Legislature with specific authority to manage groundwater by balancing private property interests
- Empowered by Chapter 36, Texas Water Code and Enabling Legislation
- Enabling Legislation trumps Chapter 36 (POSGCD fees exceed allowance in Chapter 36)



# Purpose *Chapter 36.0015*

**Provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater**

(Also must provide for most efficient use of the groundwater resources)

**Groundwater Conservation Districts are the state's preferred method of groundwater management through rules developed, adopted, and promulgated by a district**



# Groundwater Ownership and GCD Rules

- Landowners own groundwater below the surface
- Landowner entitled to drill for and produce groundwater, but not a specific amount
- GCDs may limit or prohibit drilling based on spacing or tract size and regulate production of groundwater
- GCDs can be liable for takings if their regulations go “too far”\*
  - \*(but we don’t know how far too far is...)



# Administration

Section 36.051

The governing body of a district is the board of directors . . . may be appointed or elected - please reference enabling legislation



## **POSGCD Directors**

*are appointed by County Commissioner's Courts*

Milam County	Interest	Burleson County
Lee Pelzel	At-large	Becky Goetsch
Kit Worley	Agriculture	Jay Wilder
Brian Wallis	Municipal	Jeff Zgabay
John Redington	Industrial	Buster Evers
Robert Jekel	Rural Water	Ed Savage

# POSGCD Director Qualifications

## **Sec. 8865.052. APPOINTMENT OF DIRECTORS.**

*The (both) County Commissioners Court shall appoint five directors, of whom:*

- (1) one must represent municipal interests in the county;*
- (2) one must be a bona fide agricultural producer who derives a substantial portion of the producer's income from agriculture in the county;*
- (3) one must be a director or employee of a rural water supply corporation in the county;*
- (4) one must represent active industrial interests in the county; and*
- (5) one must represent the interests of the county at large*





# Rulemaking Power *Sec. 36.101*

- A district may make and enforce rules, including rules limiting groundwater production **based on tract size or the spacing of wells**, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter.
- During the rulemaking process, the board shall consider **all groundwater uses and needs** and shall develop rules which are fair and impartial.
- After notice and hearing, the board **shall** adopt and **enforce** rules to implement this chapter....



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# Management Plan

*Section 36.1071*

- Must be adopted within 3 years of creation or confirmation
- Must be approved by Texas Water Development Board
- Must contain estimates of groundwater resources, availabilities, demands, and uses
- Must contain District management strategies including Desired Future Conditions
- Must be developed by using the District's best available data
- Must be compatible with other GCD Management Plans in same Groundwater Management Area
- The district shall adopt rules necessary to implement the management plan

# The GCD Balancing Act



Rights of Landowners and the  
highest practicable level of  
groundwater production

Conservation, preservation,  
protection, recharging and  
prevention of waste of groundwater

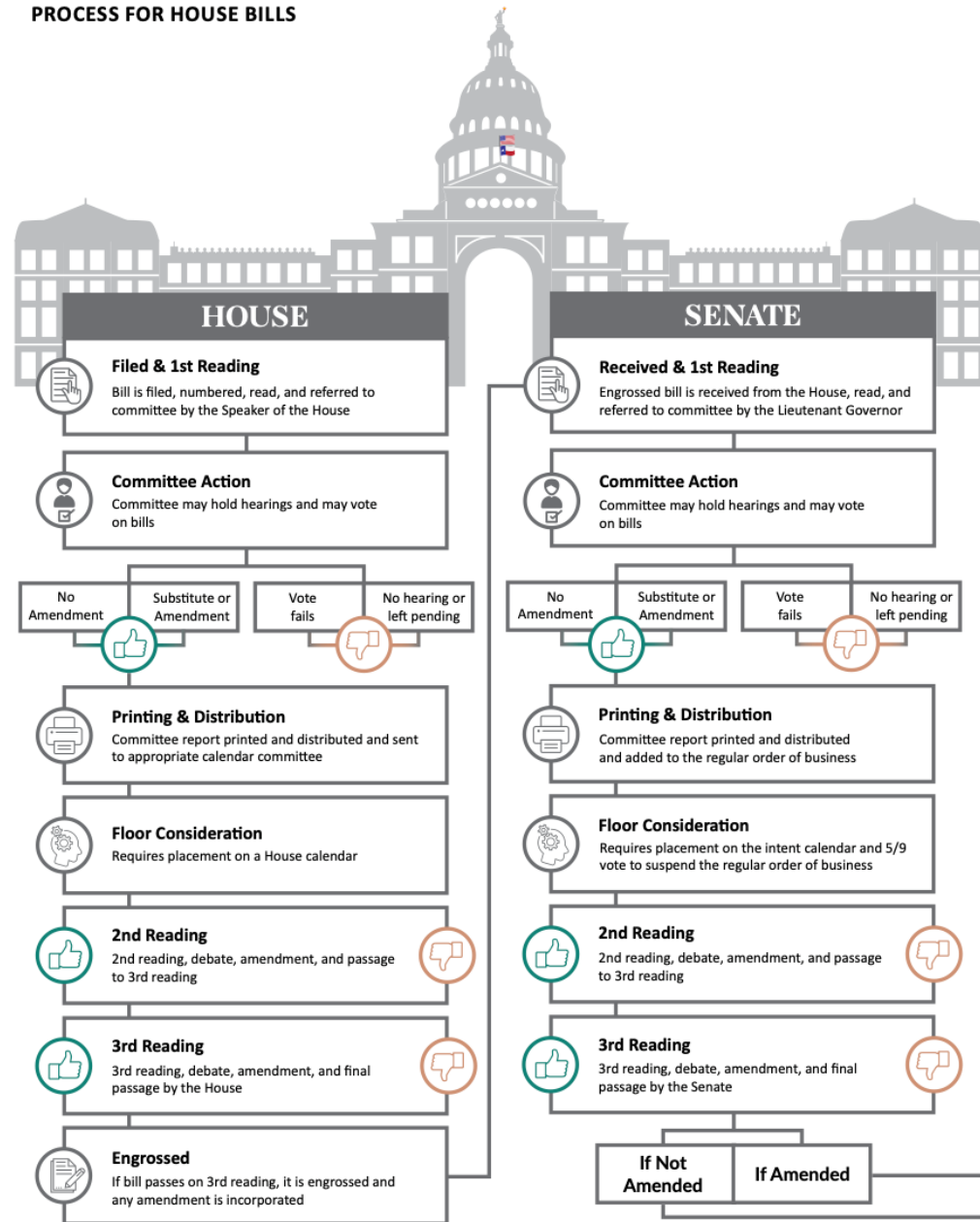


# Legislative Overview



# Process for a Bill to Become Law

## PROCESS FOR HOUSE BILLS

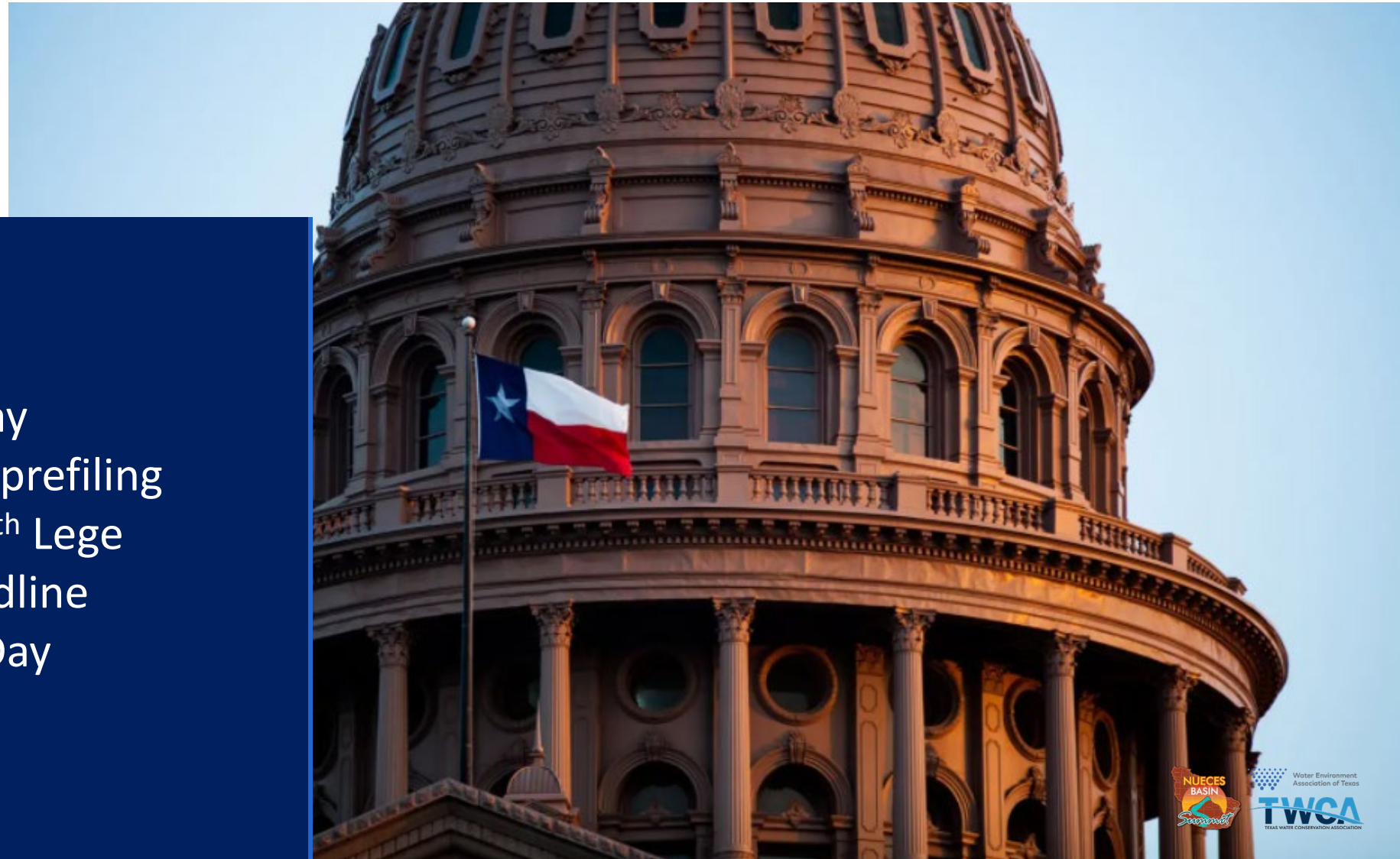




# 89th Regular Session of the Texas Legislature:

## Key Dates:

November 5 – Election Day  
November 11 – 1<sup>st</sup> day of prefiling  
January 14 – 1<sup>st</sup> day of 89<sup>th</sup> Lege  
March 14 – Bill Filing Deadline  
June 1 – Sine Die – Final Day  
June 21 – Veto Deadline



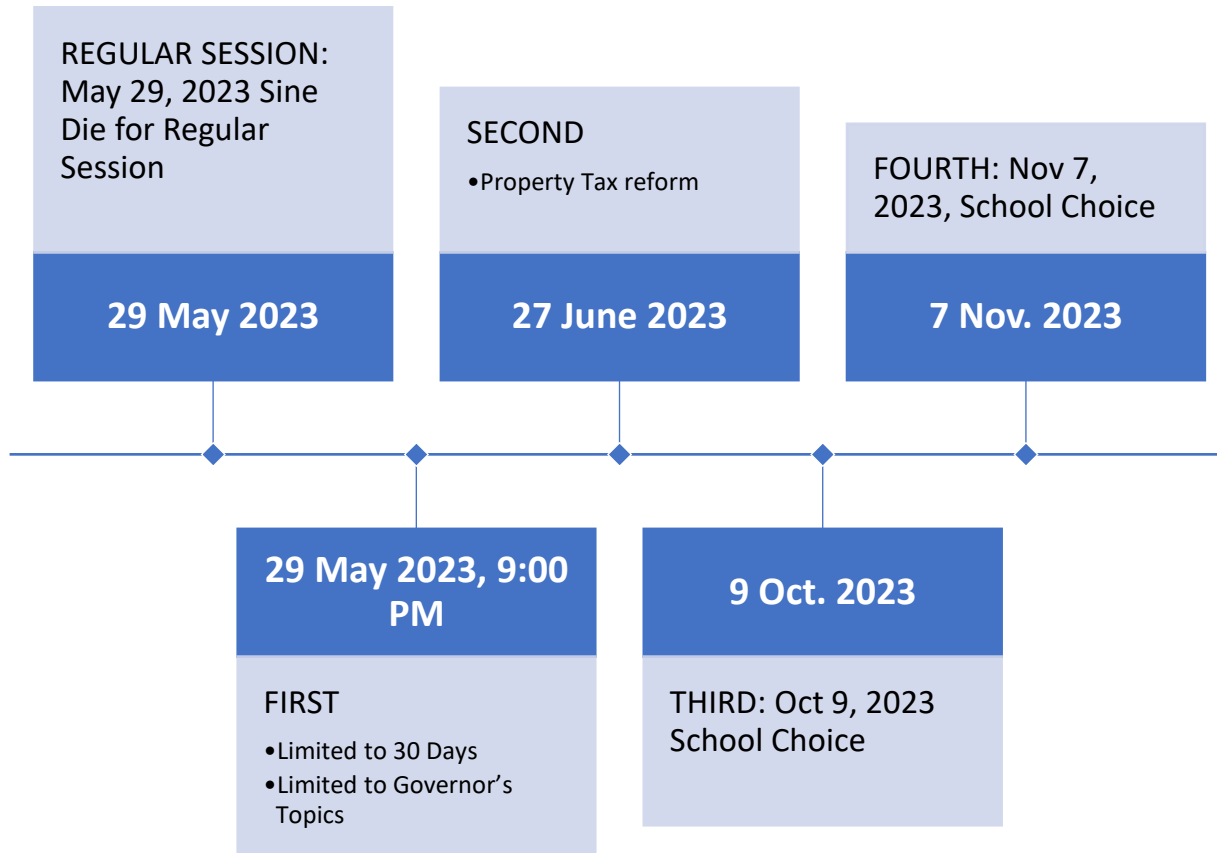
# Senate Water, Agriculture & Rural Affairs Interim Charges

- Water System Reliability
- Monitoring of Past Legislation

# House Natural Resource Committee Interim Charges

- Monitoring of Past Legislation
- Reliability of Clean Water Access
- Water Reuse
- **Groundwater Infrastructure** (data-focused)

# 88<sup>th</sup> Special Session(s)





# 88<sup>th</sup> Special Session(s) – A Series of Firsts

- 4 Special Sessions in the same year
- House Impeachment of Ken Paxton
- Senate Acquittal in Impeachment Trial
- Unanimous Expulsion of Rep Bryan Slaton



# The Political Climate

- Exhausted Legislators
- Contentious Issues (impeachment, school choice to name a few)
- Heated Primary Races
- Internal Divisions





# The Great Water Loss



**State Rep. Tracy King, a moderate Democrat in a Republican-leaning district, announces retirement.**



**Rep. Four Price declines to run for eighth term in the Texas House**

# The Great Water Loss



**Rep. Ed Thompson, House District 29**

**Rep. Kyle Kacal, Bryan, House District 12**





# The Great Water Loss

**Rep. Andrew Murr, Junction, House  
District 53**



**Sen Drew Springer, Muenster, Senate  
District 30**

# House Natural Resources Committee

## Position

Chair

Vice Chair:

Members:

## Member

**Rep. Tracy O. King**

**Rep. Ed Thompson**

Rep. Erin Elizabeth Gamez

**Rep. Kyle Kacal**

Rep. Stan Kitzman

Rep. Suleman Lalani

Rep. Will Metcalf

**Rep. Four Price**

Rep. Ana-Maria Ramos

**Rep Glenn Rogers**

Rep. Erin Zwiener



# Senate Water, Agriculture & Rural Affairs Committee

## Position

Chair

Vice Chair:

Members:

## Member

Sen. Charles Perry

Sen. Kelly Hancock

Sen. Cesar Blanco

Sen. Pete Flores

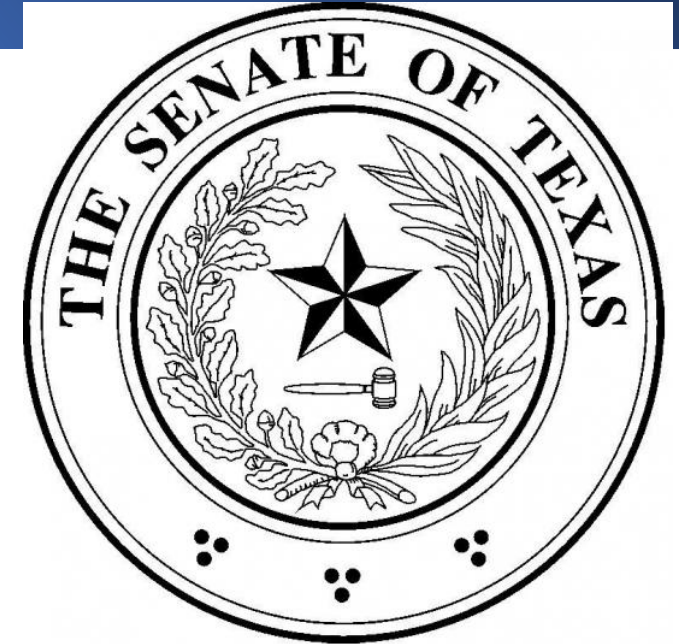
Sen. Roland Gutierrez

Sen. Nathan Johnson

Sen. Lois Kolkhorst

Sen. Kevin Sparks

**Sen. Drew Springer**



# Importance of Engaging at the Capitol

- Constant legislative staff and member turnover requires continuous education
- Water is complex and technical
- If you aren't telling your story, someone else is
- Being present and proactive is key

If you're not at  
the table,  
you're on the  
menu.



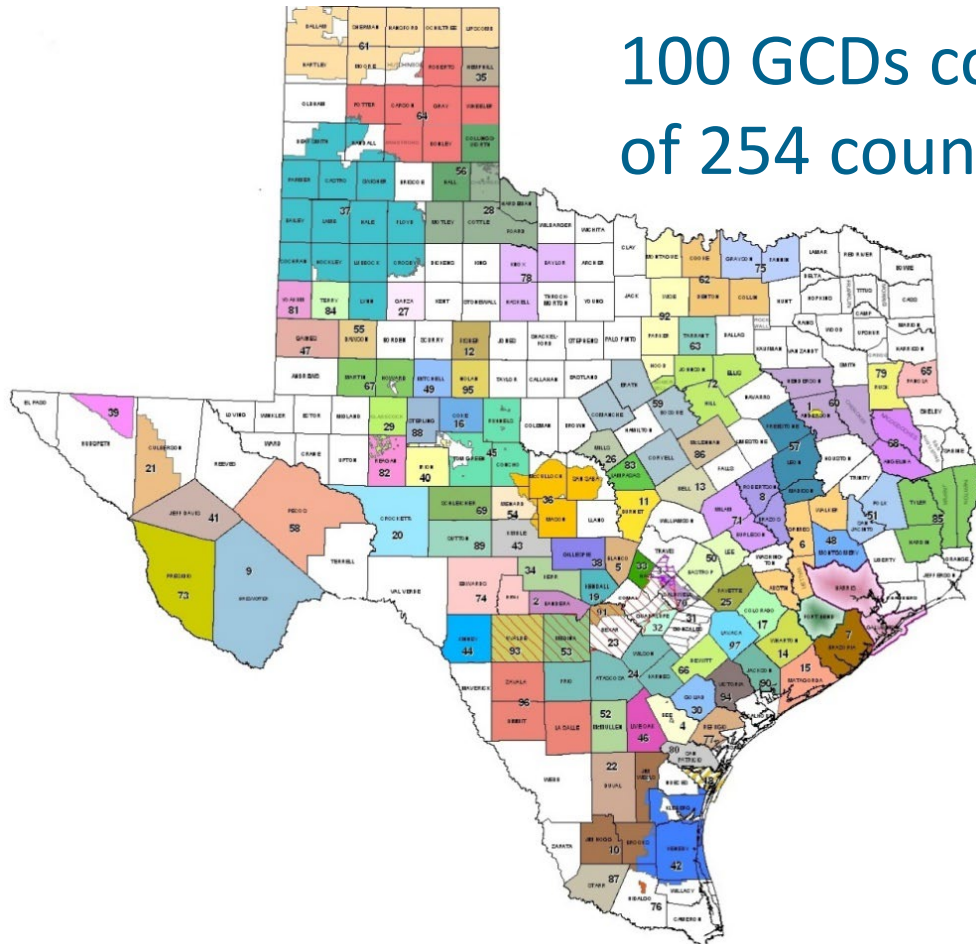
# Texas Alliance of Groundwater Districts

# Who is TAGD?

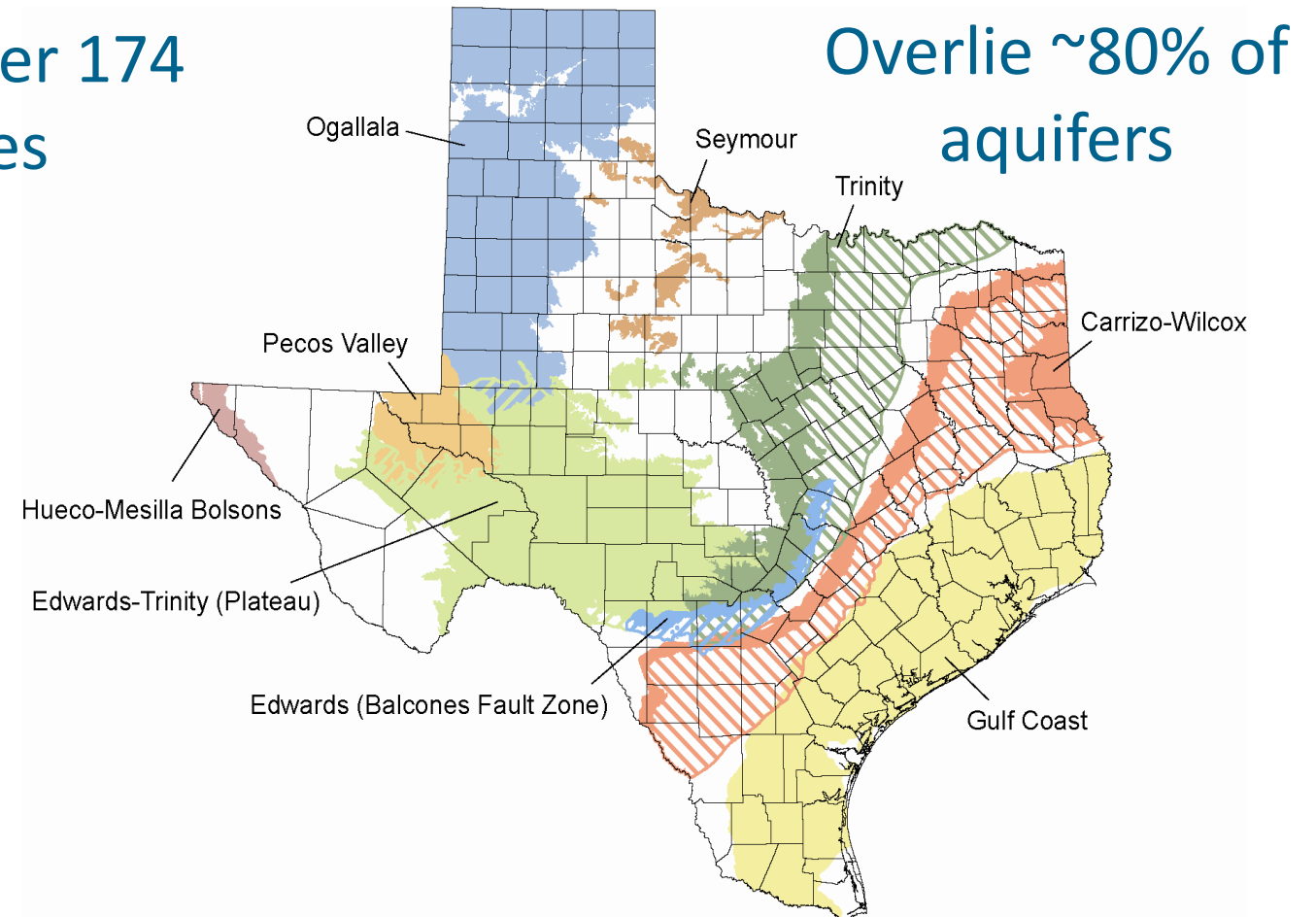
- Formed in 1988 by 14 of the 23 existing GCD's
- 501(c)(3) Nonprofit membership organization
- Unified voice on groundwater issues
- 91 of the 98 GCDs in Texas are members
- 45 associate members (consultants, attorneys, water organizations, individuals, and water entities)



# Groundwater Conservation Districts & Aquifers



100 GCDs cover 174  
of 254 counties



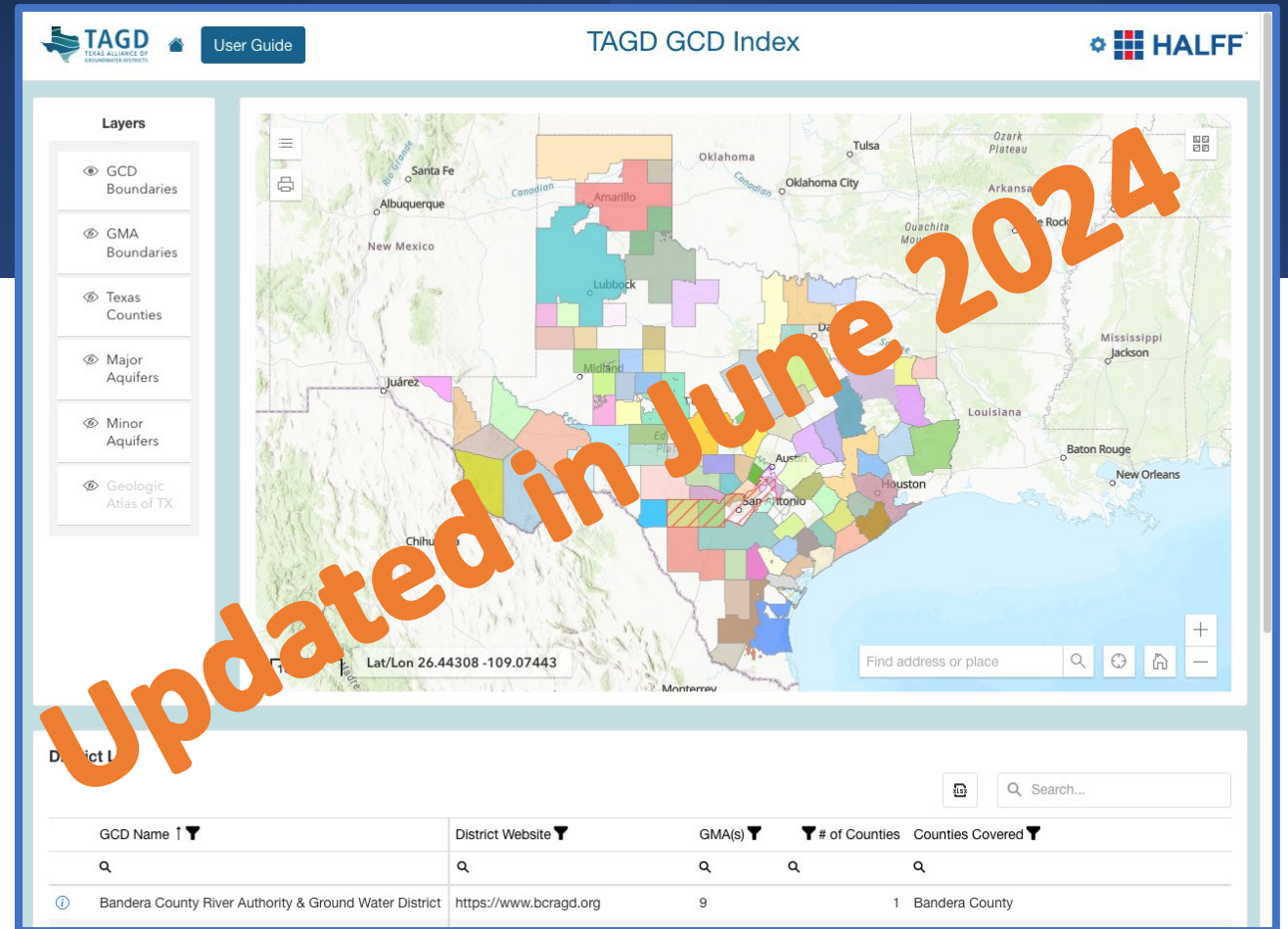
Overlie ~80% of  
aquifers

# What does TAGD do?

- Conducts educational and technical training
- Collects data on GCDs
- Facilitates communication among GCDs
- Tracks legislation, agency rulemaking, and policy discussions
- Serves as a resource for districts, the public, lawmakers, and state agencies

# GCD Index

- Interactive web viewer
- Find info on a district
  - Contact info
  - Rules
  - Fees/taxes
  - Financial assistance
  - District programs
- Helps stakeholders easily reference and compare GCDs
- Provide information that can be aggregated and analyzed to inform policy decisions





# Groundwater Conservation Districts

## FAQs



### What is a Groundwater Conservation District?

GCDs are political subdivisions of the state created to protect and balance private groundwater interests with the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and the control of subsidence caused by withdrawal.

### What does a GCD do?

- Establish rules for the spacing and drilling of all water wells
- Consider and permit non-exempt water wells
- Maintain records of non-exempt wells in a district
- Submit management plans to Texas Water Development Board for approval
- Collaborate regionally in joint planning for the establishment of DFCs
- Collect water level and water quality data on aquifers
- Educate stakeholders on water conservation
- Work to prevent harm to the aquifer due to pumping or contamination



### How do GCDs allocate their budgets?



Education & Outreach



Science & Research



Operations



Conservation



Regional Planning

### How many GCDs are there in Texas?

Currently, there are **98** GCDs plus 2 subsidence districts.

### What rules must a GCD follow?

GCDs are governed by Chapter 36 of the Texas Water Code. As political subdivisions of the state, they are also subject to Chapter 49 of the Texas Administrative Code. Based on the rules established by the State, each GCD creates policies to accomplish the goals of their District.

### Do I have to register my well with my GCD?



Yes, state law requires all wells to be registered with the GCD. This does not mean that all wells require a permit. All domestic wells and livestock wells that produce less than 25,000 gallons per day are exempt from permits. A GCD has the ability to exempt others in their rules.

## More GCD FAQs

### What is a management plan?

A management plan outlines a GCD's goals and course of action to achieve those goals. The management plan is submitted to TWDB for approval, and rules necessary to implement the management plan are adopted by each district.

### What is a Desired Future Condition?

The desired future condition is a metric that is established during the joint planning process by GCDs in a common Groundwater Management Area (GMA). The DFCs provide for consistency in groundwater management in the GMA and a balance between groundwater protection and production.

### How are GCDs funded?

GCDs are funded through property taxes, permitting fees and/or usage fees.

## Groundwater Terms

### Aquifer

An underground geological formation able to store and yield water in useable amounts. Aquifers in Texas can consist of sand, gravel, limestone, granite, and many other rock types that have pores or spaces for water to pass through.

### Aquitard

An aquitard, or confining layer, is a zone within the earth that restricts the flow of groundwater.

### Total Dissolved Solids (TDS)

TDS refers to the total concentration of dissolved constituents in solution. A TDS level of less than 1000 ppm is often considered freshwater, although many Texans' drinking water has a higher TDS.

### Cone of Depression

A cone of depression is a conically shaped area of decreased water level (or pressure) that occurs when water is withdrawn from an aquifer. If wells are too close to each other, these cones may overlap and cause interference resulting in abnormally low water levels in those wells. In areas that withdraw more water than is recharged or flows to that area, a semi-permanent regional cone of depression may occur.

## Abandoned Wells & Water Quality

There is a high environmental risk associated with abandoned or deteriorated wells, as they are a direct conduit from the surface to our groundwater resources. Because of this risk, it is highly recommended to have abandoned or deteriorated wells plugged. Some GCDs have established programs to assist landowners in plugging abandoned wells.



### How often should I have my well water tested?

It is recommended that well owners have their water professionally tested annually or when an observed change in water quality occurs.

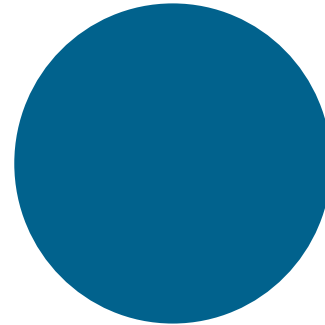
### Who can disinfect my well water?

It is recommended to contact a licensed water well driller or a pump installer to professionally disinfect your well.

[texasgroundwater.org](http://texasgroundwater.org)

# Executive Committee

- President – David Bailey
  - Mid-East Texas GCD, Upper Carrizo Area
- Vice-President – Doug Shaw
  - Upper Trinity GCD, North Texas Area
- Treasurer – Janet Guthrie
  - North Plains GCD, Ogallala Area
- Secretary – Stephanie Keith
  - Middle Trinity GCD, North Texas Area
- Parliamentarian – Kelley Cochran
  - Guadalupe County GCD, Edwards Carrizo Area
- Past-President – Amber Blount
  - Sand Land UWCD, Ogallala Area
- Far West Texas Area – Haley Davis,
- Lower Edwards Trinity – Dave Mauk, Bandera County RACD
- Upper Edwards Trinity Area – Diana Thomas, Irion County UWCD
- Upper Gulf Coast Area – Zach Holland, Bluebonnet GCD
- Lower Gulf Coast Area – Andy Garza, Kenedy County GCD



# POSGCD & TAGD

- Joined August 2003
- Gary Westbrook, Past President (2005-2007)
- Legislative Committee & Legislative Subcommittees (Gary Westbrook and Michael Redman)
- Texas Groundwater Summit Conference Planning Committee (Michael Redman)
- By-Laws Committee (Michael Redman)

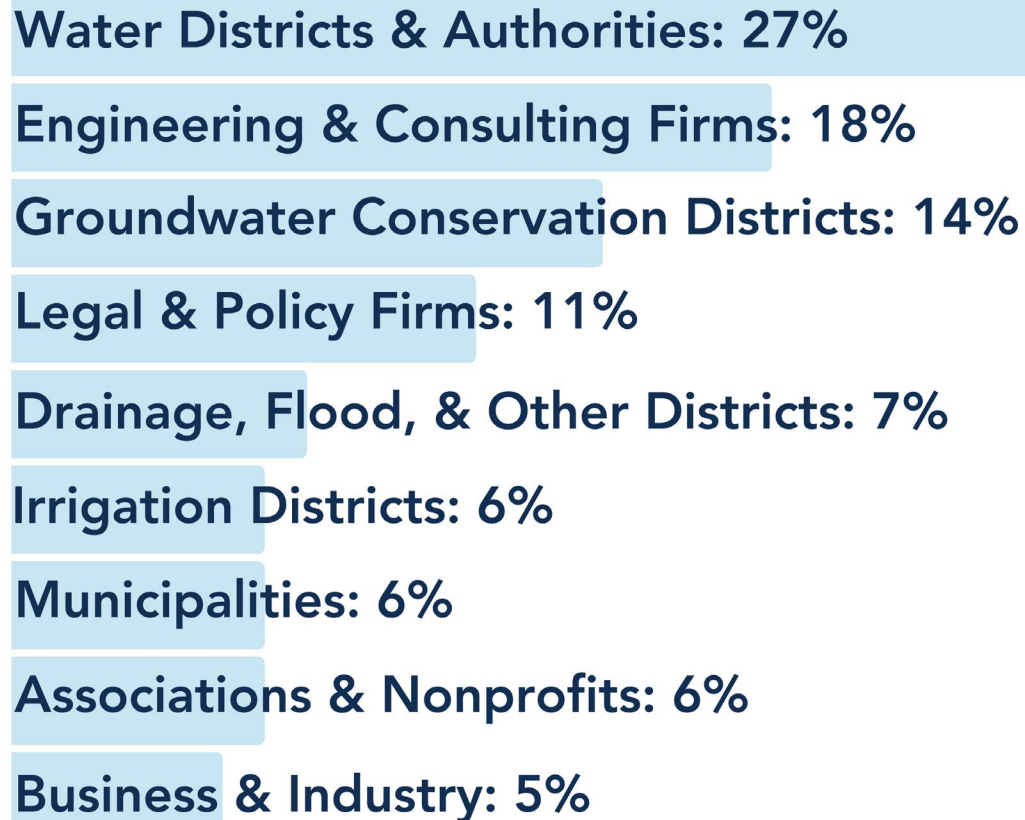


# Texas Water Conservation Association



# Who is TWCA?

## TWCA MEMBERS

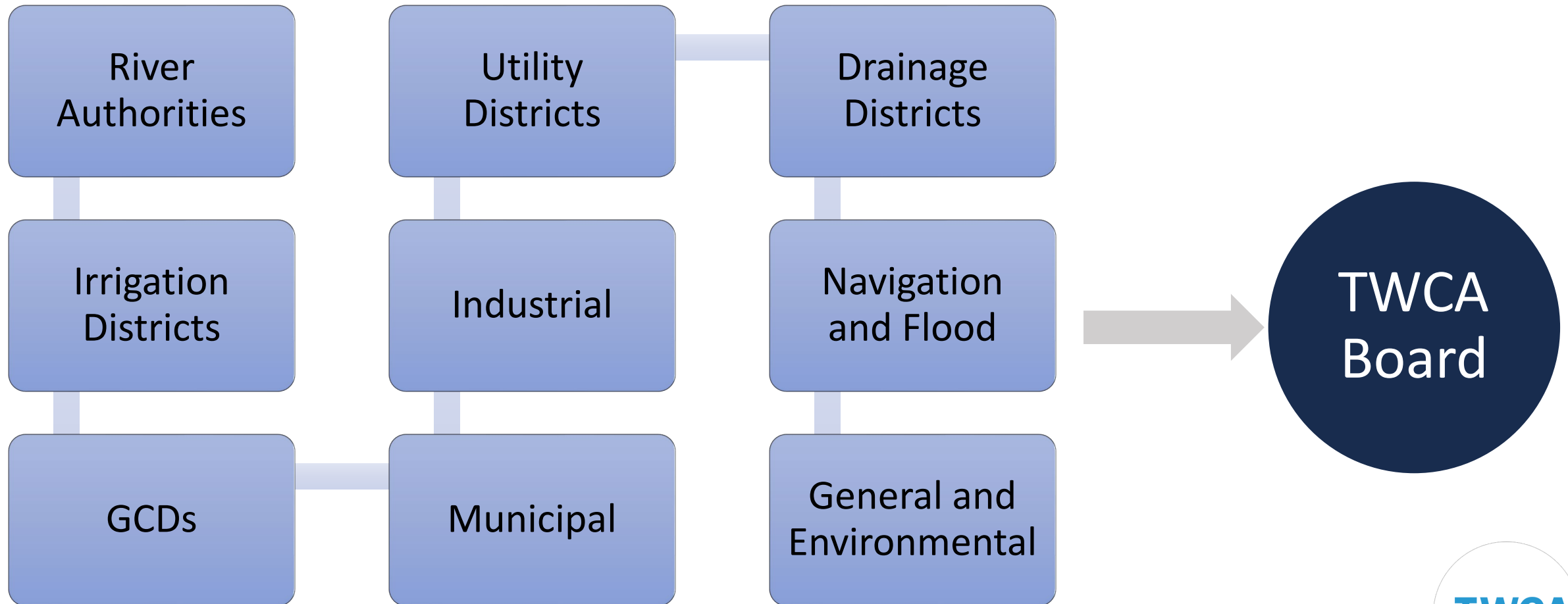


TWCA is a nonprofit policy association of the Texas water industry focusing on water supply and management.

From drought to flood, TWCA works with its members to develop sound water policy for Texas.



# TWCA Board Makeup



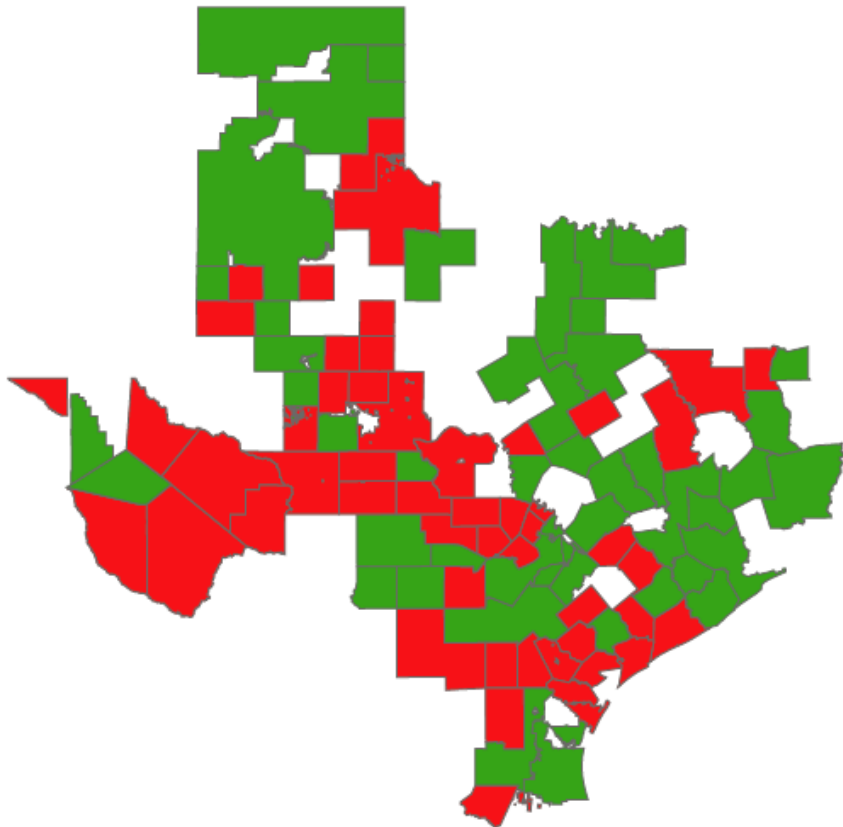
# TWCA Groundwater Panel

- Chair - Drew Satterwhite, Denison – North Texas GCD & Red River GCD
- Vice-Chair - Michael Turco, Houston – Harris-Galveston Subsidence District
- Dirk Aaron, Belton – Clearwater UWCD
- James Beach, Austin – Advanced Groundwater Solutions
- Velma Danielson, Blanton & Associates
- Brian Sledge, Austin – Sledge Law Group, PLLC
- **Gary Westbrook, Milano – Post Oak Savannah GCD**

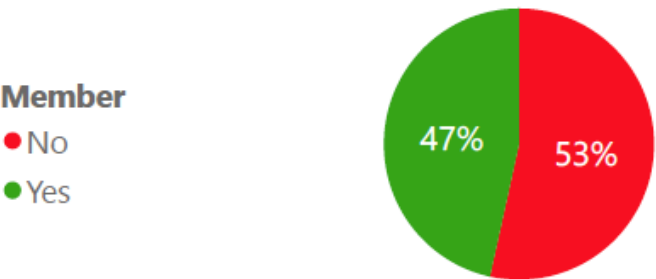


# GCD Membership in TWCA

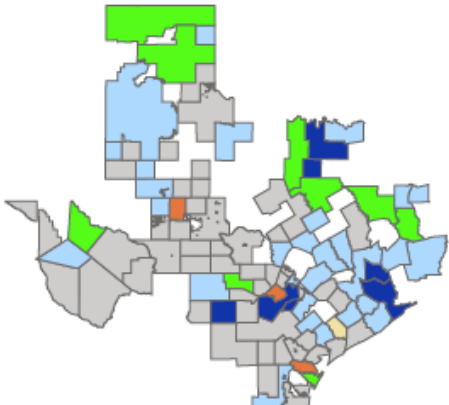
GCD Membership in TWCA



Percentage of All Groundwater Conservation Districts currently Members of TWCA

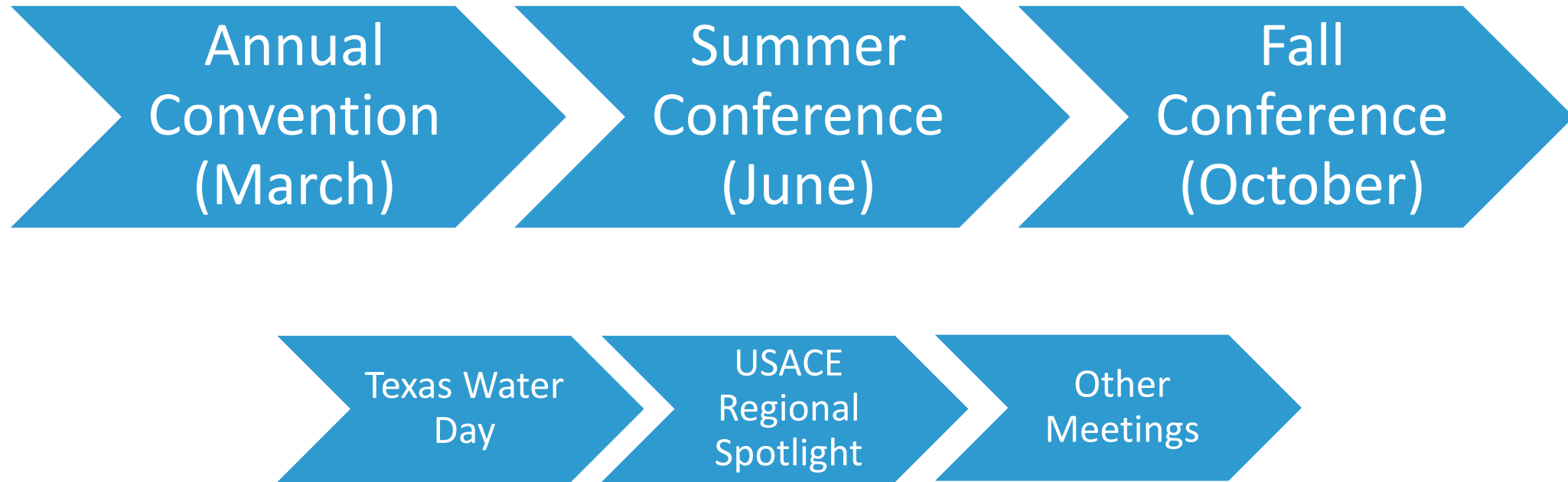


GCD Membership Rates



- Level
- Level A
  - Level B
  - Level C
  - Level D
  - Level E
  - Level F

# Conferences & Events



# Texas Legislative Efforts

Bill Tracking

Building Consensus

Education

Advocacy



# Consensus Building

- **Consensus Process.** Our stakeholder-driven Legislative Committee vets and recommends changes to water policy
- The TWCA consensus process is key to TWCA's positive reputation at the Capitol
- About **200 participants** from all areas of water management and use
- Largely drives TWCA's state legislative agenda
- Legislative proposals require a **90% consensus** among voting committee members to move forward



# TWCA Legislative Committee

## TWCA's Legislative Committee formed 5 subcommittees to work during the interim:

- Water Infrastructure
- **Groundwater Permitting**
- Drought Contingency Planning
- **Definition of "Waste"**
- Domestic/Livestock Reservoir Exemptions

## Groundwater Successes:

- Permit renewals
- Permit applications
- Contested cases
- ASR
- Notice of a GCD
- Petition for rulemaking



# Other Policy Efforts

- Federal Affairs Committee
  - Federal comment letters
  - Issue briefs explaining TWCA's key federal priorities
  - Texas Water Day
- Endangered Species Committee
- Water Laws Committee
- Water Quality Committee
- Coordination with other state and federal water associations



# **Groundwater Topics at the Legislature**

# **Final Thoughts**