



Legislative Newsletter

A "capitol" idea for keeping up with the latest news from Austin.

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82nd Texas Legislature

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Anita Privett, Advocacy Vice President

Scherel Carver, Editor

The Budget Battle Continues

Neither the budget bills passed by the Senate or the House provide the government with new revenue sources or Rainy Day funds. The Senate version cuts less out of human services and education than the House version, but that benefit required other bills to pass. Attempts to end the tax break for natural gas drilling have been unsuccessful as have other attempts to increase corporate franchise fees. There are only three weeks left to come to consensus or there will be a Special Session. Nothing is being done in this session to address the structural deficit and it is unlikely in a special session. This is a very sad day for Texans, especially the young and the elderly.

Meanwhile, an onerous sonogram bill is headed for the Governor's desk for signature, as well as a bill limiting seizure of private property by eminent domain to public use only. The conference committee on Voter ID has reported back, so this third item on the Governor's emergency list is likely to be on its way to the Governor soon.

Please fax, email or call the Governor's office, the Lt. Governor, the Speaker, and your legislators. They need to know that many Texans actually support strong, effective public education for our state.

An Austin video on redistricting is available at the LWV-TX website. Go to www.lwvtexas.org to view it.

Anita Privett, Advocacy Vice President

LWV-Texas Expert Background and Analyses and Bills Filed in the Texas House and Senate

Government

EDUCATION/PUBLIC SCHOOL FINANCE Nan Clayton (Austin) nanclayton@yahoo.com

Senate Passes Budget Bill without \$3 Million in Rainy Day Funds

On May 4, the Senate voted 19 to 12 along party lines to pass its version of the budget, Committee Substitute to House Bill 1 (CSHB 1). While the Senate Finance Committee had recommended including \$3 billion from the Rainy Day Fund, Committee Chair Sen. Steve Ogden stripped out the funds to win support from Senate Republicans.

Senate Democrats, who were alienated by the move, blocked passage. Sen. Ogden then brought up the bill on a "House bill day," which allowed the bill to be approved on a majority vote instead of the traditional two-thirds vote usually required to bring up a bill in the Senate.

CSHB 1 sets a 2012-2013 budget of about \$176 billion—\$11 billion less than the current biennium's budget. The bill shorts education by \$5 billion plus—\$4 billion from state aid to school districts and another \$1 billion plus for critical grant-funded programs. This is the first budget bill in more than 60 years that has not funded new enrollment for Texas public schools, estimated at 80,000 to 90,000 more students each year.

Now the bill goes to the House, where Speaker Joe Straus has assigned the following House members to a conference committee to work out differences between the Senate and House versions: House Appropriations Chair Jim Pitts (R-Waxahachie), along with Representatives Myra Crownover (R-Lake Dallas), John Otto (R-

Dayton), Sylvester Turner (D-Houston), and John Zerwas (R-Simonton).

Senate School-Finance Bill, SB 22, Awaits Consideration

SB 22 (Shapiro) Now awaiting consideration on the Senate floor is the school-finance bill that is an essential piece of the Senate budget, SB 22 by Sen. Florence Shapiro. There is speculation about whether the bill will be brought up in the same way as CSHB 1, using a process that circumvents the traditional two-thirds rule.

HB 400 Divides Education Community

HB 400 (Eissler) Dubbed the “mandate relief” or “flexibility” bill, HB 400 by Rep. Rob Eissler has generated a lot of discussion and was back on the House agenda for May 6. It is viewed differently by education groups representing teachers and those representing school boards.

An amendment by Rep. Larry Phillips (R-Sherman) proposed more temporary changes, including short-term measures like emergency class-size waivers based on undue financial hardship and temporary salary adjustments as a substitute for layoffs. The League opposes test-driven performance pay and supports the 22-1 cap. The League believes that any efforts to provide school districts with flexibility should be temporary and targeted to address a budget crisis.

HB 400 would do the following:

- Replaces the 22-1 cap on the size of K-4 classrooms with a district-wide average and a 25-to-1 cap for in-

dividual classrooms, which would both be subject to waiver.

- Wipes out special requirements for smaller class sizes for students at risk of failing standardized state tests.
- Eliminates the state minimum salary schedule for teachers, counselors, nurses, and librarians and calls for test-driven performance pay.
- Takes away teacher contract safeguards. Deprives term-contract teachers of timely notice of proposed nonrenewal, shifting the notice date from 45 days before the last day of instruction to the last day of instruction, which means that teachers must wait five extra weeks before they know if they are employed for the coming year. Also takes away the right to an independent hearing before an impartial hearing examiner for a teacher faced with a mid-contract termination.

Senate Passes Teacher-Mentoring Bill

SB 570 (Shapiro) SUPPORT On May 5, the Senate passed SB 570 by Sen. Florence Shapiro, which establishes improved guidelines for teacher induction and mentoring in Texas public schools—a position the League supports. The bill provides guidelines for grants to districts instituting high-quality induction and mentoring programs for new teachers. Among the standards is release time for mentor teachers and beginning teachers to work together to improve instruction. The annual cost, which is estimated at \$22.7 million, is based on the assumption that 15,000 mentor teachers, each assisting two new teachers, would get \$1,500 annual stipends.

CAMPAIGN FINANCE REFORM Stewart Snider (Austin Area) s2snider@gmail.com

No activity was reported this issue.

ELECTION LAWS and VOTING RIGHTS Linda Krefting (Lubbock)

The House Elections Committee has voted out two bills that LWV-TX has been following: the Committee Substitute for **HB 2487 (Murphy)**, which addresses some LWV concerns so we did not oppose the substitute bill, and **HB 1502 (TORRES) OPPOSE**, which would allow military voters to return ballots electronically.

The Senate-House Conference Committee has issued their version of **SB 14 (Fraser, et al.) OPPOSE** requiring all voters to provide one of a limited number of photo IDs to vote a regular ballot. The Senate adopted the Conference Committee report on May 9.

Allowable photo IDs must be current or must have expired within the last 60 days. They include: a Texas DPS driver’s license, personal identification card, or “election identification certificate;” US passport; US military ID; Texas concealed weapons license; and US citizenship papers containing a photo. Those who do not provide ac-

ceptable photo ID at the polls will be allowed to vote a provisional ballot. For the provisional ballot to be counted, the voter must otherwise be eligible and by the sixth day following the election present acceptable photo ID or sign an affidavit indicating either a religious objection to being photographed or that photo ID is unavailable because of a presidentially declared disaster within the last 45 days.

Disabled voters who do not possess any of the acceptable photo IDs may obtain a voter registration certificate exempting them from the requirement by providing disability evidence from Social Security or the Veterans Administration. Others who do not have any of the acceptable photo IDs can obtain a DPS photo “election identification certificate” at no cost if they are registered voters or are eligible voters and submit an application to DPS. Voter education efforts would begin in fall 2011 but photo ID requirements would not take effect until January 1, 2012.

FINANCING STATE GOVERNMENT Bonnie Leitch (New Braunfels) bleitch@earthlink.net

The most tragic aspect of the \$16 billion Texas Senate shortfall and even more draconian \$21 billion Texas House shortfall is the reported lack of voter outrage. At this point, it is imperative that we support the Senate budget version **CSHB 1** as the lesser of two evils, as the House-Senate budget conference begins. In that conference, because the House constitutionally originates revenue, veteran onlookers believe that the House version will prevail.

SB 1811 (Duncan) SUPPORT The most significant bill that could raise more revenue is SB 1811, sponsored by Duncan. It contains a series of funding tricks, like accelerated schedules, that could raise \$2 billion temporarily. It does virtually nothing to eliminate many unnecessary tax exemptions that cost Texas \$10 billion a biennium or to raise existing fees or taxes.

JUDICIAL SELECTION Barbara Weinstein (Dallas) gewwendt@swbell.net

No activity was reported this issue.

OPEN GOVERNMENT Linda Pavlik (Fort Worth/Tarrant County) lindap@pavlikandassociates.com

No new activity was reported this issue.

REDISTRICTING Anita Privett (Austin Area) advocacy@lwtexas.org

Bills related to the redistricting process:

SB 196 (Wentworth) SUPPORT Relating to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission - passed out of Redistricting committee and placed on Senate consent calendar

SB 1556 (Rodriguez) SUPPORT Relating to requirements for reapportionment of congressional districts (proposed by AJ Pate) Left pending in committee

These bills are the actual redistricting bills:

HB 150 Redistricting for House of Representatives - Passed in the house; left pending in Senate Select Redistricting Committee

HB 600 Redistricting for the State Board of Education - on the way to the governor.

HB 900 & SB 308 Redistricting for U.S. House of Representative seats - no public hearing in house or senate

SB 31 Redistricting for Senate - No public hearing

REPRODUCTIVE CHOICE/WOMEN'S HEALTH Julie Lowenberg (Dallas) jmlowenberg@sbcglobal.net

Bad news, bad news and more bad news:

Women's Health Program Decimated

Regretfully, the Women's Health (Medicaid waiver) Program (WHP) has been "hijacked" in the ongoing war against Planned Parenthood (PP). The bill that emerged from the Subcommittee of the HHS Committee and has now been placed on the Intent Calendar for full Senate vote is **SB 1854 (Deuell) OPPOSE** that would renew the program but ban PP from participating. This version of the bill also provides that if PP were to sue successfully to overturn the ban, the entire program would be discontinued.

Sen. Deuell claims that he crafted the measure as the only way to save the WHP - that there is no way it would pass without this provision. He also concedes that there are currently not nearly enough providers to serve the thousands of women who currently use PP under the program.

The other Senate bills supported by LWV that would renew the WHP—**SB 575 (Van de Putte) SUPPORT** and **SB 585 (Watson) SUPPORT**—did

not make it out of the Subcommittee; the House bills that would renew WHP are also apparently dead.

LWV prepared but was unable to give testimony on SB 1854 at a meeting of the Senate HHS Committee on May 3: The bill was on the hearing notice for the meeting but the Committee passed the bill without a hearing.

For the record: The testimony said that LWV must oppose SB 1854 in its current form, noting that currently PP serves almost 40% of the 100,000 low income women covered by the WHP, providing screenings for cervical and breast cancer, treatment for sexually transmitted infections, and birth control. "Losing PP as a provider would be disastrous to women's health and lead to expensive unintended pregnancies that would adversely affect Texas' already bleak financial situation." The testimony also urged the Committee to amend the bill by removing the PP exclusion, saying that we would enthusiastically support the measure if amended in this way.

Meanwhile, a substitute version of **HB 2299 (Coleman) SUPPORT AS ORIGINALLY FILED**, incorporating the language of SB 1854, has passed out of the House Human Services Committee. The original version

of HB 2299 would have renewed the WHP without restrictive language - see LNL #5. Apparently, Rep. Coleman assented to the substitute version because he agrees with Sen. Deuell that there is no way to get the WHP renewed without excluding Planned Parenthood. A very distressing turn of events.

Sonogram requirement a "done deal"

The Senate passed by a vote of 21-10 **HB 15 (Miller) OPPOSE** the sonogram requirement measure described in LNL # 3, 4, 5, 8 that was previously passed in the House. Rep. Miller, the House sponsor, agreed to support the changes made to the bill in the Senate State Affairs Committee, specifically the "deal" struck between Sen. Patrick, sponsor of the senate version of the bill (**SB 16 - OPPOSE**), and Sen. Uresti that makes exception to the 24 hours in advance requirement for women in rural areas who have no providers.

The day after Rep. Miller gave his blessing, the House voted to concur with the Senate version by a vote of 94-41. The sonogram requirement measure will likely be the first of the items that Gov. Perry declared to be an emergency in his January "State of the State" address to reach his desk and become law.

"Choose Life" License Plates also a "done deal"

SB 257 (Carona) OPPOSE The "Choose Life" license plates measure (proceeds directed to "crisis pregnancy centers") - see LNL # 1, 4, 6, 8 - has now passed in both chambers of the legislature. On the House floor, pro-choice proponents attempted without success to add amendments that would have ameliorated the bill. Presumably this measure also will soon be signed into law by the Governor.

Other developments:

In the waning days of the session, we can expect attempts to attach anti-choice amendments onto unrelated and otherwise non-controversial measures. These could include:

- Requiring physicians to file fetal death certificates in cases of abortion that would include intrusive reporting requirements.

- Requiring courts to tabulate the orders they send to the Department of State Health Services for payment of attorneys' and guardians' *ad litem* fees in judicial bypass cases.
- Prohibiting hospital districts from using tax revenues to finance abortions - should the bill to same effect, **HB 561 (Christian) OPPOSE**—which is still alive as of this deadline—die as a stand-alone measure.

"Bad" bills apparently still alive as of Newsletter deadline include:

- **HB 816 (Hunter) OPPOSE** - see LNL # 2, # 6 - would prohibit abortion insurance coverage through health benefit exchanges except to avert woman's death
- **HB 1078 (Callegari) OPPOSE** - would place burdensome informed consent and reporting requirements on women seeking abortions and their physicians (in the guise of protecting women from "coerced" abortions) - see LNL # 5, # 7 and #8
- **HB 2828 (King) OPPOSE** - see LNL # 7, # 8 - would require the court, where a judicial bypass in lieu of parental consent is being sought, to appoint two different people to act as the minor's guardian and attorney. Currently, in some counties, judges appoint the same person to both positions to promote confidentiality. This requirement would be a burden for the courts who will have to find more appointees and to the state who pays the cost.

A bit of good news?

Two bills that would adversely affect minors seeking a judicial bypass, **HB 797(King) OPPOSE** and **HB 2555 (Brown) OPPOSE** - see LNL # 2, #5, #8 - have apparently been left pending in the House State Affairs Committee. And **SB 1790 (Patrick) OPPOSE**—see LNL # 5 and 8—that would impose restrictions and burdensome reporting requirements on physicians who administer abortion-inducing drugs - is also still pending in the Senate Health and Human Services Committee.

STATE/LOCAL RELATIONS Karen Rankin (Austin) karenrankin@austin.rr.com

See related bill under Land Use below.

Administration of Justice

CAPITAL PUNISHMENT Susybelle Gosslee (Dallas) sgosslee@airmail.net

Thank you for your contact with your legislators during the session. We are in the home stretch, so commitment to calls, emails, and faxes are most important on all the LWV issues.

SB 122 (Ellis) SUPPORT This legislation relates to post-conviction forensic DNA analysis. Please call your Representative to ask that the bill get out of committee and for a favorable vote in the House.

HB 215 (Gallego) SUPPORT This bill would require law enforcement agencies to begin standardizing the way eyewitnesses identify criminal suspects.

HB 219 (Gallego) and HB 220 (Gallego) SUPPORT HB 219 deals with electronic recording and admissibility of certain custodial interrogations. It has been favorably recommended to the House by the Criminal Jurisprudence Committee. **HB 220** deals with procedures for applications for writs of habeas corpus based on relevant scientific evidence. It is currently in the House Criminal Jurisprudence Committee. There are companions to both bills sponsored in the Senate by Criminal Justice Committee Chair John Whitmire.

DRUG LAWS AND POLICIES Elaine Talariski (San Antonio) etalariski@earthlink.net

HB 117 (Mc Clendon) SUPPORT and **HB 1491 (Naishat) SUPPORT** These two bills have not been

heard by the committee. It is unlikely any action will be taken on these bills this legislative session.

IMMIGRATION Sally M. Bolster (San Antonio) sallybolster@aol.com

HB 12, CSHB 12 (Solomons, Boaco, Hairless) OPPOSE Placed on emergency calendar for May 9. This bill makes reference to "sanctuary cities," making it unlawful for a municipality, county, or special district to adopt a rule, ordinance, or policy that the entity prohibits the enforcement of the laws of this state or federal law relating to immigration. This bill is opposed by most law enforcement agencies in the state.

HB 183, CHSB 183 (Solomons; Harper-Brown; Christian; Kolkhorst; Parker; Truitt; White) OPPOSE Bill was considered in Calendars on March 21. There has not been any more movement on the bill.

HB 532 (Lewis) OPPOSE A peace officer may arrest, without warrant a person who the peace officer has probable cause to believe is not a citizen or national of the U. S. and is in the U. S. unlawfully. The law enforcement agency having jurisdiction over the arrest promptly shall notify U. S. Immigration and Customs Enforcement. Testimony on this bill was taken May 4, and it was left pending in committee

Social Policy/Human Resources

CHILD ABUSE and NEGLECT Joyce Robinson (Sherman/Grayson County) jbrobinson@cableone.net

There has been some movement in this area, but the legislative session is winding down, and other issues have been the newsmakers.

These bills were scheduled for public hearings on May 10:

SB 218 (Nelson) SUPPORT Related to procedure in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems

SB 219 (Nelson) SUPPORT Relates to health and mental health services for children in foster care and kinship care

SB 1154 (Uresti) SUPPORT Relates to a task force for the development of a strategy to reduce child abuse and neglect and improve child welfare

Voted out of House Committee:

SB 434 (Nelson) SUPPORT Relates to the relationship between domestic violence and child abuse and neglect, and forming a task force to address this relationship

SB 1106 (Harris) SUPPORT Relates to the exchange of confidential information among certain governmental entities concerning certain juveniles.

CHILD HEALTH CARE Susan Majors (Richardson) majorssusan@gmail.com

No activity was reported this issue.

Although many experts have data proving full-day pre-K classes are very beneficial to children, pre-kindergarten grant funding cuts have put many of these programs in about 25% of Texas' 1,237 districts on the chopping block. Because most of these districts use the grant funding for full-day classes, some of the largest school systems are now considering cutting their full-day offerings or shifting funding from other programs.

Education funding cuts still being debated in the Legislature don't affect the standard half-day program that districts must offer if they have enough qualifying students. The pre-K grants, cut from both the Senate- and House-approved budget proposals, save the state approximately \$200 million over the next two fiscal years.

The following bills are showing movement:

HB 129 (Alvarado) SUPPORT Would prohibit the manufacture and sale of certain children's products containing bisphenol-A or certain other substances. Referred to **Public Health Committee** 2/11 and left pending in committee after hearing May 4.

HB 434 (Parker) SUPPORT Relates to the minimum standards for licensed child-care facilities and registered family homes to follow medical directives. Passed in the House on March 30. Senate received from the House March 31; Senate **Health & Human Services** passed and recommended to local and uncontested calendars on May 6.

HB 1834 (Shelton) OPPOSE Relates to elimination of certain requirements for increasing community awareness of prekindergarten programs offered by or in partnership with school districts. Senate received from the House on May 6.

HB 3051 (Pickett) SUPPORT Relates to the provision of child care by certain facilities exempt from child-care licensing requirements so that a person may attend an educational class provided by a nonprofit adjacent to an international border. House passed 4/26/2011. Senate received from the House and referred to **Health & Human Services** May 3.

HB 3547 (Alvarado) and companion **SB 1745 (Gallegos) SUPPORT** Relate to enforcement by a local government of fire safety standards at certain child-care facilities. Both filed March 11 and referred to **Urban Affairs** and **Health & Human Services** respectively March 23, with the bill reporting favorably without

amendment in House Urban Affairs public hearing 4/20/2011 and Senate hearing 4/26, with bill left pending in committee. HB 3547 passed House 5/3 and Senate received the bill and referred to Health & Human Services May 5.

HB 3670 (Carter) and companion **SB 265 (Zaffirini) SUPPORT** Relate to child care licensing and would require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety. LWV-TX testimony provided and reported favorably as substituted. House received SB 265 from the Senate 4/21, passed in committee w/o amendment and passed House May 5. Bill reported back to Senate and enrolled May 6. HB 3670 report was filed, distributed and placed on House Local & Consent Calendar May 5 with posting rule suspended May 2 and tabled. while companion SB265 considered May 5.

SB 260 (West) SUPPORT Relates to minimum training standards for employees of certain child care facilities. House received from the Senate 4/21; **Human Services Committee** reported favorably w/o amendment. Report filed, distributed and sent to Local & Consent Calendar May 6.

SB 264 (Zaffirini) SUPPORT Relates to the provision of information about quality of child care providers by local workforce development boards. House received from the Senate 4/21, assigned to **Human Services** with hearing scheduled May 10.

SB 1178 (Nelson) SUPPORT Relates to the criminal history or violation regulation of certain shelter day-care facilities, child-care facilities, and individuals providing child-care services; also provides an administrative penalty. House received from the Senate 4/21 and referred 4/29 to **Human Services** with hearing scheduled May 10.

Monitoring

Monitoring continues on **HB 133, HB 283, HB 1831, HB 2188, HB 2199, HB 2212, HB 2269, SB 76, SB 185, SB 270, SB 400, SB 598, SB 599 and SB 1813**; they have not moved since the last report.

tated. **Committee report sent to Local & Consent Calendar**

HB 2136 (Guillen) SUPPORT Relates to contracts and training of brokers and subcontractors of regional providers of nonemergency medical transportation services. **Passed the House and received by the Senate**

HB 2245 (Zerwas) SUPPORT Relates to physician incentive programs to reduce hospital emergency room use for non-emergent conditions by Medicaid patients. It would pay an enhanced reimbursement rate for routine after-hours appointments. **Passed the House & Referred to Senate Health & Human Services Committee**

HB 2609 (Guillen) SUPPORT A person may not be employed by a facility serving the elderly or persons with disabilities if the person has been convicted of these additional crimes: obstruction or retaliation, cruelty to livestock animals, or solicitation of a gift from a resident or consumer of a facility. **Referred to Senate Health & Human Services Committee**

HB 2903 (Zerwas) SUPPORT This bill supports increasing PACE program sites and education about the

PACE Program, which is all-inclusive care for the elderly. **Passed the House & Received by the Senate**

SB 222 (Jane Nelson) PROBABLE SUPPORT Would create access to certain long-term care services and supports under the medical assistance program. **Scheduled for a public hearing in the House Human Services Committee on May 10.**

SB 293 (Kirk Watson) and HB 70 (Armando Martinez) SUPPORT Companion bills that would promote telemedicine medical services, telehealth services and home telemonitoring services provided to certain Medicaid recipients. **House Reported favorably as substituted**

SB 544 (Kel Seliger) and HB 1034 (Mark Shelton) SUPPORT These are companion bills relating to unlawful acts against and criminal offenses involving the Medicaid program. It applies to those committing fraud and those who may assist in some way. **Reported favorably as substituted**

SB 796 (Jane Nelson) SUPPORT Relates to the reporting on the prevention and treatment of diabetes within the Medicaid population in the state. **Reported favorably in the House without amendments**

SERVICES FOR THE SERIOUSLY MENTALLY ILL Linda Camin (Dallas) ircamin@hotmail.com

The differences for mental health and substance abuse services between the House and Senate budget bills are great.

The House bill **HB 1 (Pitts)** cuts services so deeply that 40,000 people would lose assistance; the Senate bill (SB 1, Ogden) maintains funding close to current levels. **Urge members of the Conference Committee to support the Senate provisions for mental health and substance abuse.**

Conference Committee members representing the House are: House Appropriations Chair, Jim Pitts (Waxahachie), Vice Chair, Sylvester Turner (Houston), Myra Crownover (Denton), John Otto (Dayton), John Zerwas (Richmond). As of this writing,

Conference Committee members representing the Senate are Chair, Steve Ogden (Bryan), Vice Chair, Juan Hinojosa McAllen), Robert Duncan (Lubbock), Jane Nelson (Grapevine), Tommy Williams (The Woodlands).

Natural Resources

AIR QUALITY Laura Blackburn (Houston Area) laura2blackburn@gmail.com

Good news! The Senate Natural Resources Committee substituted Senator **Huffman's bill, SB 657** (the "clean" Sunset Bill for TCEQ) for **HB 2694**, which had the amendments by Chisum that we opposed! It will now go to a Conference Committee—**please keep up with these bills and as soon as the Conference Committee is appointed, then beg and plead with them to keep Chisum's amendments out and pass a "clean" bill!!**

Otherwise, things are slowing down as the Senate and House work on budgets and other high priority items.

SB 339 (Gallegos) SUPPORT Requires that emissions events be reported to a number of local officials (i.e., state senator and representative, county commissioners,

mayor) and states what that report should contain. The information shall also be on the TCEQ web site. The bill was heard in the Natural Resources Committee on April 26 and left pending in committee.

SB 527 (Fraser) OPPOSE Allows Texas Emission Reduction Program (TERP) funds to be used for air monitors in North Texas. We opposed this bill because it used TERP Funds, which are not in the House Appropriations bill but are in the Senate bill. TERP fund projects are part of the Texas State Implementation Plan (SIP) and we are committed to a certain tonnage reduction of emissions. The bill passed the Senate and was sent to the House on March 21. It passed the House on April 21, after being heard in the Environmental Regulation Committee. It was sent to the Governor on April 28.

SB 875 (Fraser) OPPOSE This is a terrible bill! It is very obtuse but basically states that if a “person was in general compliance with rules, permits, etc. when a “nuisance or trespass” was occurring,” that person has an affirmative defense to nuisance or trespass. In other words if someone files a nuisance suit against a permittee and the permittee is in “general compliance” with the rules, regulations, etc., that person has an “affirmative defense” against the suit. It was engrossed in the Senate and sent to the House on April 24, when it was referred to the Environmental Regulation Committee. **Please send letters to this committee opposing this bill!**

SB 1134 (Hegar) WATCH Requires TCEQ to monitor to prove that emissions limits are necessary. This bill passed the Senate on April 19 and was sent to the House on April 20. Its companion bill, **HB 3110 (Craddick)** was reported favorably from the Environmental Regulation Committee on April 14. It was engrossed by the House on May 2 and sent to Calendars.

House Bills:

ENERGY Penny Miller pdmiller.lwv@gmail.com

No action reported.

HAZARDOUS WASTE Susybelle Gosslee (Dallas) sgosslee@airmail.net

HB 2184 (Lewis) OPPOSE Relates to the disposal of low-level radioactive waste. **Ask Calendars Committee members to block this bill.**

Recycling Legislation:

SB 329 (Watson) and HB 1966 (Chisum, Eissler, Cook, Naishtat, Branch) SUPPORT This bill would require producers to take back used television sets for recycling. Now is the critical time for you to contact your state lawmakers!

HB 695 (Allen, Reynolds) SUPPORT This bill would establish a program for manufacturers to collect, transport, recycle, and dispose of their mercury-added thermostats. These thermostats contain more mercury than any other household product—and there are an estimated 25 million of them still installed in American homes, yet to be disposed of. Most homeowners are switching to the new energy-efficient digital thermostats.

Radioactive Waste Legislation:

HB 2184 (Lewis), SB 1504 (Seliger and Hinojosa) and SB 1605 (Seliger) OPPOSE **Call your Texas Representative and Senator** to ask: What is the rush to pass this legislation when so many questions remain unanswered? Proposed studies need to provide the answers in order to make the best public policy decisions and to protect the environment, public safety, and the state budget. The LWV wants the best and most protective deal for Texas.

HB 977 (Burnam) SUPPORT Requires a number of state agencies and commissions to develop climate adaptation plans. The State Affairs Committee Report was sent to Calendars.

HB 1403 (Rodriquez) WATCH Would change the eligibility for the Low Income Vehicle Repair and Assistance Program (LIRAP). This bill was engrossed in the House and sent to the Senate on May 2, where it was referred to the Natural Resources Committee.

HB 1906 (Howard) SUPPORT Makes the violation of motor vehicle idling limitations a Class C misdemeanor. This bill was engrossed in the House and sent to the Senate on May 3, where it was referred to the Natural Resources Committee.

HB 3110 (Craddick) OPPOSE Relates to lessening permit requirements for certain oil and gas facilities. This bill passed the Environmental Regulation Committee and was sent to Calendars on May 2.

Issues for which the LWV and citizens don't yet have enough information include:

- funding for clean up in case of an accident at the site or during transportation;
- adequate assurances in place to protect the environment, public health and the state budget;
- the actual cost for maintenance and oversight of the site when WCS leaves the site and the state takes over the management of the site for possibly up to a million years;
- the plan for accumulating funds for Texas to pay expenses for management of the site;
- what WCS would pay citizens who may suffer losses due to accidents during transport of low-level radioactive waste, at the site or after a terrorist attack;
- the cost to Texas if capacity becomes an issue due to importation of waste from other states, and
- what would happen if WCS sells its site to an international company?

Please call Susybelle Gosslee at 214-732-8610 if you have any questions or need additional information.

LAND USE Karen Rankin (Austin Area) karenrankin@austin.rr.com

SB 18 (Estes, et al) SUPPORT Would tighten up eminent domain procedures and has been designated an "emergency" by the governor. Should be on his desk in the next few days.

SB 142 (West, et al) NEUTRAL A lengthy bill that would modify the rules within which most property owners associations will operate. It has passed through the Senate and been referred to the House. The bill is too technical and covers too many areas of the state Property Code for us to analyze with any authority.

SB 238 (West, et al) SUPPORT Has been voted out of the Senate and has made it through a House committee. The next step for this bill, which would prevent property owners associations from outlawing most residential solar devices, is a full House vote.

Of particular interest in Houston is **HB 1071 (Davis, Sarah) SUPPORT** Would allow a property owners' association to extend deed restrictions following a vote of the group. This bill has been approved in the House and sent to the Senate.

TRANSPORTATION Edie Jones (Tarrant County) edithsjones@hotmail.com

No action reported.

WATER Mary Vogelson (Dallas) mmev@swbell.net

The slow progression continues for the most important of the water bills this session:

CSSB 332 (Fraser) OPPOSE This bill is finally out of committee and on to "stage 5" as the committee report has been sent to the Calendars committee. There still seem to be a lot of questions about this bill, and I will attempt to "distill" them, somewhat!

History:

In 1904 the Texas Supreme Court established the "rule of capture" for the state. This means that the landowner was given an ownership interest and the right to "capture" the groundwater beneath his/her property without being held liable for damage to others. Groundwater Conservation Districts (GCDs) were subsequently created by the legislature as the "preferred" method of groundwater management, with the job of conserving and protecting groundwater resources.

Today, there are a number of lawsuits trying to establish a clarification of the extent of the landowner's interests in water below the surface of his land. The argument by the GCDs is that there is no "interest" in the groundwater until the landowner "captures" (i.e., produces) it.

CSSB 332 is proposed to clearly define that a landowner owns the water below the surface of the land as "real property". It also "amends current law relating to vested ownership interest in groundwater beneath the surface of the land, the right to produce that groundwater, and the management of groundwater in the state"

This substitute bill now states that the landowner owns the groundwater as "real property" rather than the originally stated "vested interest" ownership.

This change now states that the ownership rights entitle the landowner "...to drill for and produce groundwa-

ter," whereas the original bill stated that the landowner's vested interest "entitles the landowner fair chance to produce the groundwater."

While these changes clearly state that a landowner should be entitled to drill and produce groundwater below the owner's real property, the restrictions still apply from the Water Code that the landowner may not cause "waste or malicious drainage of other properties or subsidence" and would "not be entitled to a right to capture a specific amount." Also, the landowner could be limited "by a groundwater and conservation district's rules."

AND HERE'S THE BOTTOM LINE sort of: The Legislative Budget Board, which is required to evaluate every piece of legislation regarding the fiscal impact to the state budget, notes the following "**Fiscal Note**" for **SB 332**:

While there is no fiscal implication to the State, there "could be a fiscal impact to a GCD, but it would vary **depending on the number of lawsuits filed that could result from the provisions of the bill.**"

Further, "the GCD may have to verify that a potential well owner is actually the owner and entitled to the groundwater...prior to approving a well, by requesting a property deed from the potential well owner..."

I call this the "Groundwater Birther Bill." But all kidding aside, it will be interesting to see if the legislature really follows through with a bill that could result in an increase in litigation throughout the state.

For our LWVTX positions, the larger question is: what happens to the protection and conservation of groundwater in the large areas of the state where there are no GCDs?