

By: Hilderbran

H.C.R. No. 245

HOUSE CONCURRENT RESOLUTION

1 WHEREAS, The U.S. Environmental Protection Agency (EPA),
2 acting under the federal Safe Drinking Water Act (SDWA), has
3 promulgated national standards for naturally occurring materials,
4 such as radionuclides and arsenic, so as effectively to impose
5 unfunded mandates relative to the waters of this state; and

6 WHEREAS, The Texas Radiation Advisory Board (TRAB) has
7 questioned the validity of the science used by the EPA in
8 promulgating the national standards because the standards are based
9 on unsupported, unwarranted, and nonvalidated public health
10 theories; the proposed fix for the theoretical hazard in the
11 drinking water has actually created more problems than it will
12 solve for small rural community water systems (CWS) that have no
13 alternative water supply, and the TRAB has recommended against
14 Texas proposing and adopting such rules based on the adverse
15 financial and devastating effects the rules will have on small CWS;
16 and

17 WHEREAS, The Texas Commission on Environmental Quality
18 (TCEQ) is authorized by state and federal law to adopt and enforce
19 rules in Texas to implement the SDWA but does not have authority to
20 provide an exclusion from those rules for small CWS that have no
21 alternative water supply and that are unable to comply with SDWA
22 requirements because of exceptional physical or financial
23 circumstances; now, therefore, be it

24 RESOLVED, That the 78th Legislature of the State of Texas

1 hereby declare its intent that, in adopting a rule to implement a
2 federal drinking water standard for the maximum contaminant level
3 of naturally occurring materials such as radionuclides and arsenic,
4 the TCEQ after consulting with the EPA and Texas Water Development
5 Board (TWDB) issue alternative compliance schedules for small CWS
6 that cannot achieve compliance with the federal standards because
7 of exceptional physical or financial circumstances; and, be it
8 further

9 RESOLVED, That in adopting the alternative compliance
10 schedules, the TCEQ give special consideration to the size,
11 density, and median income of the population served by a small CWS
12 and whether a small CWS has any reasonably available alternative
13 source of water; and, be it further

14 RESOLVED, That the TCEQ, when adopting the federal rules,
15 shall consult with the TWDB, the Texas Department of Agriculture,
16 the TRAB, and other state agencies with expertise in the protection
17 of public health and shall consider all relevant costs and benefits
18 or detriments to the state and to affected small CWS implementing
19 the standards, and will exercise as much regulatory flexibility
20 practicable when implementing the rules; and, be it further

21 RESOLVED, That the Texas Commission on Environmental Quality
22 and related agencies involved, not later than January 1, 2005, in
23 their regular report to the legislature include a summary of their
24 findings and the status of implementation of the federal rule; and,
25 be it further

26 RESOLVED, That the secretary of state forward an official
27 copy of this resolution to the respective chairs of the Texas

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1 Commission on Environmental Quality, Texas Water Development
2 Board, Texas Department of Agriculture, and Texas Radiation
3 Advisory Board.