

By: Hilderbran

H.C.R. No. 245

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 Commission on Environmental Quality
7 (TCEQ) is authorized by state and federal law to adopt and enforce
8 rules in Texas to implement the SDWA but does not have authority to
9 provide an exclusion from those rules for small community water
10 systems that have no alternative water supply and that are unable to
11 comply with SDWA requirements because of exceptional physical or
12 financial circumstances; now, therefore, be it

13 RESOLVED, That the 78th Legislature of the State of Texas
14 hereby declare its intent that, in adopting a rule to implement a
15 federal drinking water standard for the maximum contaminant level
16 of naturally occurring materials such as radionuclides and arsenic,
17 the TCEQ after consulting with the EPA and Texas Water Development
18 Board (TWDB) issue alternative compliance schedules for small
19 community water systems that cannot achieve compliance with the
20 federal standards because of exceptional physical or financial
21 circumstances; and, be it further

22 RESOLVED, That in adopting the alternative compliance
23 schedules, the TCEQ give special consideration to (1) the size,
24 density, and median income of the population served by a system; (2)

1 the availability of, and the costs associated with, properly
2 licensed facilities that treat, store, or dispose of waste
3 treatment materials and that are capable of removing the relevant
4 naturally occurring materials; and (3) whether a system has any
5 reasonably available alternative source of water; and, be it
6 further

7 RESOLVED, That the TCEQ, in conjunction with the TWDB, the
8 Texas Department of Agriculture, and state agencies with expertise
9 in the protection of public health, evaluate the approximate costs
10 and benefits or detriments to the state of implementing the federal
11 drinking water standards, taking into consideration how
12 implementation directly relates, if at all, to the estimated public
13 health benefit of potentially affected small community water
14 systems; and, be it further

15 RESOLVED, That the evaluation address the ability or
16 inability of small community water systems to fund, operate, and
17 maintain the sophisticated treatment systems that are necessary to
18 achieve federal compliance; and, be it further

19 RESOLVED, That the participating agencies assess whether the
20 federal standards are reflective of science that establishes a
21 direct cause-and-effect relationship between long-term exposure of
22 small system customers and micro-levels of the naturally occurring
23 materials being investigated; and, be it further

24 RESOLVED, That the evaluation also examine whether proper
25 studies of oral ingestion and relevant human exposure were
26 conducted to ensure that the federal standards provide a
27 demonstrable benefit in terms of public health; and, be it further

1 RESOLVED, That the evaluation determine the approximate
2 costs to the state and to affected community water systems of
3 implementing the standards, including the capital costs of water
4 treatment, the annual operating and maintenance costs of such
5 treatment, and the costs associated with the proper and safe
6 disposal of hazardous and low-level radioactive waste; and, be it
7 further

8 RESOLVED, That the evaluation investigate whether the
9 employment of point-of-use technology provides an economically
10 reasonable and viable alternative for small community water systems
11 as a method to remove or minimize naturally occurring materials in
12 groundwater in instances where they exceed the federal standards;
13 and, be it further

14 RESOLVED, That the Texas Commission on Environmental Quality
15 and related agencies complete the required evaluation not later
16 than November 1, 2004, and report to the legislature not later than
17 January 1, 2005, including in the report their findings regarding
18 the readily available means to treat or remove naturally occurring
19 materials among affected small community water systems; and, be it
20 further

21 RESOLVED, That the secretary of state forward an official
22 copy of this resolution to the chair of the Texas Commission on
23 Environmental Quality.