

**JOINT COMMITTEE ON OVERSIGHT OF  
BEXAR METROPOLITAN WATER DISTRICT**

**Report to the 81<sup>st</sup> Texas Legislature  
January 9, 2009**

Co-Chairmen:  
State Senator Carlos I. Uresti  
State Representative Frank J. Corte, Jr.

SENATOR CARLOS I. URESTI, CO-CHAIR  
SENATE DISTRICT 19

REPRESENTATIVE FRANK CORTE, JR., CO-CHAIR  
HOUSE DISTRICT 122



COMMISSIONER SERGIO "CHICO" RODRIGUEZ  
BEXAR COUNTY, PRECINCT 1

JOE A. ACEVES  
DON DURDEN

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## BEXAR METROPOLITAN WATER DISTRICT OVERSIGHT COMMITTEE

January 9, 2009

The Honorable Kip Averitt  
Chairman of the Senate Committee on Natural Resources  
P.O. Box 12068  
Capitol Station  
Austin, Texas 78711

The Honorable Mike Hamilton  
Chairman of the House Committee on Natural Resources  
Room E2.310, Capitol Extension  
Austin, TX 78701

Dear Gentlemen:

The Joint Committee on Oversight of Bexar Metropolitan Water District ("District") respectfully submits the following interim report. We hope that this document will assist the Texas legislature as it considers urgently needed reforms of the District during the 81<sup>st</sup> Regular Session.

Respectfully yours,

Handwritten signature of Carlos I. Uresti in black ink.

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CARLOS I. URESTI

Handwritten signature of Frank J. Corte Jr. in black ink.

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FRANK J. CORTE JR.

Handwritten signature of Don Durden in black ink.

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DON DURDEN

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\* JOE ACEVES

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\* SERGIO "CHICO" RODRIGUEZ

\* See Appendix IV

SENATOR CARLOS I. URESTI  
P.O. Box 12068  
AUSTIN, TEXAS 78711  
512.463.0119  
FAX: 512.463.1017

REPRESENTATIVE FRANK CORTE, JR.  
P.O. Box 2910  
AUSTIN, TEXAS 78768  
512.463.0646  
FAX: 512.463.0893

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## EXECUTIVE SUMMARY AND COMMITTEE RECOMMENDATION

In recent years, a number of Bexar Metropolitan Water District (District) customers have complained of inadequate service, unsafe water conditions, and excessive rates. Additionally, some employees of the District have been accused of unethical conduct, irresponsible and illegal business practices, and financial mismanagement. The District has suffered from a notoriously poor relationship between management and its elected board of directors. In the recent past, ongoing distrust and rancor between some members of the board and key management personnel hampered efforts to improve service for existing customers, as well as to provide service to new residents and businesses in the rapidly growing portions of the District's service area.

These concerns prompted legislative intervention during the 80<sup>th</sup> Regular Session of the Texas legislature (House Bill 1565 (Puente/Uresti)). HB 1565 created the Bexar Metropolitan Water District Oversight Committee to provide ongoing oversight of the District, and to recommend further reform measures for the consideration of the 81<sup>st</sup> legislature.

In its oversight role, the committee has received hours of invited and public testimony regarding the past and current status of the District. The committee has also received detailed reports from the State Auditor's Office (SAO) and the Texas Commission on Environmental Quality (TCEQ) regarding the District's management, operations, and finances. From this information, the oversight committee has concluded that serious mismanagement of the District's finances and operations imperils its ability to provide adequate, safe, and appropriately priced services to its ratepayers and the service areas within its boundaries. The District's poor performance, negative reputation, and managerial weaknesses contribute to a climate of uncertainty and distrust for current and prospective customers, as well as for those seeking to further economic growth and development in the areas it serves.

Despite changes in general management, a new board composition following elections, and some improvements in rate structures and technical performance, the District is still hampered by a board and management that lack sufficient training and experience to oversee badly needed and fundamental reforms. While the committee holds out hope that the District eventually will be capable of managing its affairs independently, the committee believes that the District currently lacks the necessary expertise to do so.

The Bexar Metropolitan Water District Oversight Committee has reviewed a variety of reform options submitted by its members, SAO, and TCEQ (*see pages 9-16 for a full listing of these options.*) A majority of the committee has reached agreement on the following:

- **Recommendation to the legislature:** The 81<sup>st</sup> Legislature should consider amending the Bexar Metropolitan Water District's enabling statute to provide for the appointment of a conservator, or a conservator board. The committee further recommends that such amending legislation be drafted in consultation with SAO, TCEQ, and the Office of the Governor. Bexar Metropolitan Water District reform legislation should incorporate certain elements and principles including, but not limited to, the following:

- No amendments to general law;
- Conservator or conservator board appointment by the governor;
- SAO authority to initiate conservatorship if its audit finds inadequate fiscal management in the District;
- TCEQ authority to initiate the conservatorship process if it finds that the District lacks adequate technical or managerial capacity;
- A conservator or conservator board required to (1) develop a comprehensive rehabilitation plan for the District, (2) regularly report the status of the conservatorship every thirty (30) days to the agency of jurisdiction, the oversight committee, the legislature and the governor, (3) account for the actions the conservator has taken to ensure district compliance with the plan, and (4) provide an estimate of the progress the conservator has made toward completion of its plan.
- The conservator or conservator board shall take the following actions:

Not later than May 2010, complete a process to inventory and evaluate the distinct water systems that make up Bexar Metropolitan Water District, and determine the following information for each system:

- a. The District's basis in or the intrinsic value of the infrastructure associated with that water system.
- b. The District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure in that water system.
- c. The adequacy of the source of the water supply (e.g., wells, etc) located in each water system's service area to supply the current and projected demands generated in that service area.
- d. The adequacy of the water storage facilities located in each water system's service area to supply the current and projected demands generated in that service area.
- e. The adequacy of the distribution system located in each water system's service area to supply the current and projected demands generated in that service area.

Not later than October 2010, sell those systems that:

- a. If sold at a fair price, will improve the District's financial position, and
- b. Can be feasibly served by another water utility.

Oversee, ratify, supplement, amend, and if necessary, over-rule the actions of the elected board of the Bexar Metropolitan Water District.

Not later than November 2010, make a recommendation to the Bexar Met Oversight Committee regarding the continuation of the Bexar Metropolitan Water District.

- Continuation of the conservator or conservator board until the agency of jurisdiction certifies the District's adequacy, or the governor issues a proclamation to that effect; and
- Funding of the conservatorship by the District itself.

**Recommendations to the District:** The committee recommends that the Bexar Metropolitan Water District:

- Take swift action to identify and submit to the Governor (after review and comment by the committee, SAO, and TCEQ) a capable candidate with significant water utility experience to serve as a "self-appointed managing conservator." This individual will begin his or her work as soon as possible and for as long as needed, while legislation is being developed during the Session; and
- Prepare and deliver to the committee members, by Jan. 9, 2009, a current financial assessment and 18-month financial forecast. After the district submits this forecast report, the State Auditor's Office will provide a review and comment on the district's report

## INTRODUCTION

Texas water districts play a crucial role in protecting water resources and the public health, enabling economic growth, and providing a high quality of life for the residents who live within their boundaries. As legislatively created bodies, water districts remain accountable to the State for the proper performance of their powers and duties. The performance, integrity, and viability of a local water district affect much more than the local communities in question; indeed, poorly performing districts can call into question the entire public policy framework that has been designed to protect and provide access to a precious and essential natural resource for all Texans.

In recent years, the customers of the Bexar Metropolitan Water District have complained of inadequate service, unsafe water conditions, and excessive rates. Additionally, certain employees of the District have been accused of unethical conduct, irresponsible and illegal business practices, and financial mismanagement. The District has suffered from a poor relationship between management and the elected board of directors. In the recent past, the ongoing distrust and rancor between some members of the board and key management personnel (and between customers and the public) significantly complicated efforts to improve service for existing customers, as well as provide service to new residents and businesses in the rapidly growing portions of the District's service area.

These ongoing concerns prompted legislative intervention in the 80<sup>th</sup> Regular Session of the Texas legislature (House Bill 1565 (Puente/Uresti)). HB 1565 created the Bexar Metropolitan Water District Oversight Committee to provide oversight of the District, and to recommend further strict reform measures to the legislature for its consideration. The bill also required the District to prepare various reports detailing its operations to the Texas Commission on Environmental Quality (TCEQ) and to this oversight committee. HB 1565 further required the District, no later than 18 months after the applicable section of the bill became effective, to adopt a uniform rate structure with rates that are equal to or lower than the rates of other large retail water providers in the region, but allowing the district to adopt higher rates if necessary to meet debt service obligations or debt coverage requirements.

House Bill 1565 included other provisions intended to scrutinize past and current financial and management practices and policies undertaken by the District, including a financial and managerial audit of the district to be completed by the State Auditor's Office (SAO). The bill required the TCEQ, not later than the 30th day after the effective date of the bill, to begin an on-site evaluation of the district. TCEQ was also authorized to issue orders compelling any appropriate and necessary action by the district upon completion of the evaluation. HB 1565 further provided that if TCEQ finds that the district is incapable of operating as required, the agency was permitted to recommend the option of initiating the process of receivership appointment to operate the utility under Section 13.142, Water Code.

The following report provides a brief background on the District, the audit performed by the State Auditor's Office (SAO), the reports completed by the Texas Commission on Environmental Quality (TCEQ), and the committee's policy recommendations for the consideration of the 81<sup>st</sup> legislature.

## **BEXAR METROPOLITAN WATER DISTRICT BACKGROUND**

The District was formed by an Act of the Texas Legislature in 1945 to provide water services to historically underserved areas of the San Antonio metropolitan area. The District has grown from an initial subscriber base of 4,765 residential connections in 1945 to more than 87,000 residential and commercial connections. More than 260,000 people in Bexar, Atascosa, Comal, and Medina counties depend on the District for their water needs.

The District is governed by a board comprised of seven members, all of whom are elected locally. No county or municipal officials are represented in the District's governance structure. As of this writing, the board's members are:

Guadalupe Lopez - President - District 1  
Andy Carr - Director - District 2  
Blanche Atkinson - Secretary - District 3  
John Shackelford - Treasurer - District 4  
Vanessa Ybarra - Director - District 5  
Lesley Wenger - Director - District 6  
Debra Eaton - Vice President - District 7

The District's day-to-day management is the responsibility of a general manager hired by the Board.

## OVERSIGHT COMMITTEE COMPOSITION AND PROCEEDINGS

As required by HB 1565, this five-member oversight committee was formed to include State Senator Carlos Uresti and then Representative Robert Puente (as sponsor and author of HB 1565, respectively) as co-chairmen. Additionally, Bexar County Commissioner Sergio “Chico” Rodriguez (resigned from committee, effective 1/05/09), and two public members, Joe Aceves (resigned from committee, effective 1/7/09, and Don Durden, were appointed by the Governor. Following the resignation of Representative Puente in February, 2008, House Speaker Tom Craddick appointed Representative Frank J. Corte, Jr. to replace him as co-chairman of the committee, in accordance with the provisions of HB 1565.

The committee conducted the following public hearings to receive public testimony regarding the management of the district and the services and rates its subscribers encountered. The dates of these hearings and meetings are listed below:

October 2, 2007, 1:30 p.m.  
San Antonio City Hall, City Council Chambers

November 11, 2007, 9 a.m.  
San Antonio City Hall, City Council Chambers

February 27, 2008, 9 a.m.  
San Antonio City Hall, City Council Chambers

April 21, 2008, 5 p.m.  
Concordia Lutheran Church Gym, San Antonio

October 24, 2008, 9 a.m.  
San Antonio City Hall, City Council Chambers

November 11, 2008, 12 p.m.  
Commissioner’s Court Executive Conference Room, Bexar County Courthouse, San Antonio

December 17, 2008, 10 a.m.  
Bexar County Courthouse, Commissioners Court Executive Conference Room, San Antonio

*Note: For access to these hearing postings and the associated minutes and witness lists, please see: <http://www.senate.state.tx.us/75r/senate/commit/c875/c875.htm> and click on “Schedule and Bills Referred to Committee”.*

## REPORTS AND TESTIMONY PRESENTED TO THE COMMITTEE

The committee received public and invited testimony, as well as reports and audits from the TCEQ and SAO. Based on the information received, the committee concludes that customers and the District as a whole have suffered from serious mismanagement of the District's finances, assets, operations, and personnel, and that extensive, external oversight and reform of the District is required. The committee cites excerpts from SAO and TCEQ contractor reports in support of this conclusion. The full text of these reports is available electronically through hyperlinks in the appendix section of this report.

The SAO audit report stated:

*The Bexar Metropolitan Water District's (District) Board and its management did not establish adequate management and financial controls to safeguard the District's assets and ensure that the District's expenditures were reasonable and necessary. The District does not keep an official, Board-approved budget and overspent its fiscal year 2007 operating budget by \$8.8 million without amending the budget.*

*Although the District's procurement policies comply with state law, the District did not consistently implement these policies in fiscal years 2007 and 2008. The District also did not adequately track and monitor its contracts, and it was unable to provide auditors with the total number and value of all current contracts. The District lacked adequate controls over its expenditures, and it made a number of unnecessary or questionable expenditures in fiscal years 2007 and 2008, including \$2.4 million in legal service payments and settlement claims.*

*Although the District's external auditor identified significant control weaknesses in the District's procurement, inventory, and payroll functions since at least fiscal year 2006, the District did not develop a formal plan to address these weaknesses. The District's Board should establish an audit committee and an internal audit function. This should include hiring an internal auditor who would report directly to the audit committee and monitor the correction of weaknesses identified to ensure the financial integrity of the District. (State Auditor's Office, Bexar Metropolitan Water District Audit Report, 2008)*

The TCEQ report stated the following:

*BexarMet has a poorly defined management structure. Departmental reporting lines are frequently changing and poorly communicated to and not well understood by employees. With few organizational performance measures there is little accountability for managers and staff. BexarMet has neither a long-range strategic plan nor an asset management plan and lacks stated goals, objectives and performance measures. Hence, BexarMet operates almost entirely in a reactive mode; day-to-day issues are elevated to crisis status instead of being addressed in a systematic, prioritized manner...*

*The failure of the board of directors of BexarMet to have a common understanding of their individual and collective roles and responsibilities has created a climate of friction and distrust which has led to an internal atmosphere of low morale and an external impression that BexarMet is, at best, poorly managed and, at worst, corrupt. Staff presentations to the board often do not adequately and completely articulate the complete range of viable alternatives and the consequences of “no action.” This combination of lack of understanding of responsibilities, climate of distrust, and poorly presented information leads to ineffective or inappropriate decisions and decreases the public confidence in and public accountability of the board of directors...*

*BexarMet’s financial policies and practices lack sufficient internal controls in the areas of budgeting, purchasing and contract management. The budget is not used as an internal control mechanism and individual line items are frequently exceeded. Departments are not held accountable for budget overruns. BexarMet’s debt coverage ratio (a measure of capacity to cover debt service from current operations) is much lower than comparable entities examined by the project team. This may affect the District’s ability to meet future debt payments. The District’s debt to equity ratio (a measure of liquidity) is much higher than all four of the entities compared. This may affect the District’s ability to issue additional bonds and maintain its financial integrity and bond ratings...*

*BexarMet implemented a new rate structure in 2007 based on the recommendation of its consultant, but failed to institute practices that could minimize the risk to revenue stability and BexarMet’s bond rating. BexarMet has begun the process of increasing its reserve funds including a rate stabilization fund that would benefit its cash flow during periods of low usage or other variables in revenue. BexarMet’s impact fees have been and continue to be insufficient and not representative of cost recovery. (TCEQ, Final Report on Bexar Metropolitan Water District, 2008)*

Fundamental breakdowns in the management and operation of the District have led not only to excessive rates and inadequate, potentially unsafe service quality for customers in the service area, they have also created suspicion and a lack of public trust that impairs the District’s ability to initiate and sustain urgently needed reforms from within. Furthermore, recent high profile criminal indictments of the District’s former general manager and their public relations officer have tainted the District’s reputation and further eroded public confidence to such an extent that the committee believes that the District is no longer capable of undertaking and completing urgently needed reform measures without outside expertise and oversight.

## RECOMMENDATIONS

The SAO, TCEQ, and oversight committee members provided the following reform recommendations for the consideration of the committee and the 81<sup>st</sup> legislature in 2009.

### State Auditor's Office Recommendations

**The State Auditor's Office (SAO) conducted an audit of the District and released its report in October, 2008. The SAO recommendations follow.**

The Board should:

- Amend the budget as required by the District's policy so that it reflects the District's approved spending plan.
- Evaluate the general manager's performance against pre-established objectives to ensure that the general manager is meeting performance expectations.
- Ensure that future general manager contracts base compensation on the general manager's performance.
- Establish internal controls to ensure that purchases are reasonable and necessary for the operation and maintenance of the District.
- Establish an audit committee and an internal audit function, which includes hiring an internal auditor that reports directly to the audit committee.

The District should:

- Implement its contracting policies to ensure it properly solicits goods and services, conducts evaluations to select vendors, and communicates with vendors that were not awarded contracts.
- Clarify its contracting policy regarding professional services and ensure it adheres to state requirements.
- Ensure that a price is established before executing contracts.
- Develop a central database to track and monitor its contracts.
- Monitor its contracts to ensure that it approves and makes payments according to contract terms.
- Ensure that all expenditures are reasonable and necessary for the operation and maintenance of the District.

## **TCEQ Recommendations**

The TCEQ contracted the evaluation of the District. The evaluations were divided into two contracts, one for management items and one for the technical items. The following are a summary of the recommendations of TCEQ for the District.

### **Issue 1 - Management Structure**

- The District should develop a clear and comprehensive organizational structure and communicate it to the employees, board and management.
- The District should develop a comprehensive strategic plan and an asset management plan.
- The District should develop goals, objectives and performance measures.
- The District should conduct thorough searches for qualified candidates for all management positions.
- The District should continue making improvements in customer service to address water service and quality issues.
- The District should develop a process to examine alternatives for capital improvement projects.
- The District should implement appropriate programs to minimize overall risk including safety, emergency response, asset management and source water protection programs.

### **Issue 2 - Decision Making**

- The District should follow standard administrative policies regarding meetings and decision making.
- The District should develop and implement, with the Board's agreement, documents and training that clearly defines the role of the board, management and staff of the District. Training should also include water system operations, ethics, and financial management.
- The District should revise procedures for presenting information and project alternatives to the board.
- The District should revise the methods of recording and providing access to the board meeting minutes.

### **Issue 3 - Regulatory Compliance**

- The District should be proactive in quickly addressing potential health based violations and assure adequate disinfection of water lines after construction and maintenance.
- The District should address all outstanding compliance issues.
- The District should develop and implement a work order system to track operations and maintenance.
- The District should develop and implement a preventative maintenance program as part of its asset management plan.

#### **Issue 4 - Financial Policies and Debt Comparison**

- The District should use the annual operating budget as a tool for monitoring and controlling expenses.
- To implement a firm control on expenses, the District should centralize purchasing and procurement, implement risk management, consider staff and consultant recommendations and allow a higher limit on expenditures requiring board approval.
- The District should reduce the debt to equity ratio by allowing continued use of commercial paper and establish a deadline to replenish its cash reserve account.
- The District should address the organizational structure of its accounting department, update standard operating procedures and accounting software.

#### **Issue 5 - Rate Setting**

- The District should develop and implement strategies to minimize risks to revenue stability and bond rating in future rate adjustments.
- The process to evaluate and revise impact fees should be completed.
- The District should shift rate setting goals to a cost based rate so they are equitable and cost based also.

#### **Issue 6 - Capital Improvement Budget**

- The District should reduce the debt ratio/debt burden on the system.
- The District should develop and implement an asset management plan that considers risks and alternatives.
- The District should develop and implement a work order system that allows for proper tracking of operations and maintenance.

#### **Issue 7 - Water Service Interruptions**

- The District should develop, implement and maintain an asset management plan that considers risks and alternatives.
- The District should complete and maintain an infrastructure inventory and comprehensive system maps.
- The District should develop and implement a work order system that allows the District to properly track operations and maintenance.
- The District should make improvements including distribution, storage, pump stations and interconnections.
- The District should develop and implement a systematic and accountable distribution system flushing program.
- The District should educate customers and staff on water conservation regulations and enforce those regulations when necessary.

#### **Issue 8 - Water Quality**

- The District should be proactive in quickly addressing potential health based violations and assure adequate disinfection of water lines after construction and maintenance.
- The District should address all outstanding compliance issues.

- Develop and implement a systematic distribution system flushing program.
- The District should complete and maintain an infrastructure inventory and a comprehensive map system.
- The District should develop, implement and maintain an asset management plan that considers risks and alternatives.
- The District should develop and implement a preventative maintenance program as part of its asset management plan.
- The District should develop and implement a work order system that allows the District to properly track operations and maintenance.
- The District should make improvements including distribution, storage, pump stations and interconnections.

### **Issue 9 - Unaccounted for Water**

- The District should develop and implement a method of tracking water use and loss.
- The District should develop and implement a comprehensive leak detection and repair program.
- The District should develop and implement a work order system to track operations and maintenance.
- The District should make systems improvements and interconnections.
- The District should educate staff and the public about existing water conservation regulations and enforce those regulations.
- The District should develop and implement a systematic distribution system flushing program.

### **Committee Member Options**

Individual oversight committee members provided the following reform options for consideration by the legislature:

#### **OPTION 1. CONSERVATORSHIP AS A STATE AGENCY UNDER CH. 2104, GOVERNMENT CODE**

- Amend Bexar Met's enabling legislation to apply conservatorship language found in Chapter 2104, Government Code. Ch. 2104 applies when a state agency is fiscally mismanaged. By amending the enabling statute, other similar entities are not affected. 1 requires providing that Bexar Met is considered a state agency for these purposes only.
- Ch. 2104 provides for the appointment of a conservator for a limited time by the governor, with the advice and consent of the senate.
- Ch. 2104 also provides that the State Auditor's Office (SAO) can initiate this process if an SAO audit finds gross fiscal mismanagement in the audited entity.
- An appointed conservator must (1) report regularly to the governor on the status of the conservatorship, (2) account for the steps taken to ensure that the agency complies with state fiscal management policies, and (3) provide an estimate of the progress the conservator has made toward that goal.

**OPTION 2. RECEIVERSHIP UNDER CH. 13, WATER CODE AND CH. 291, TEXAS ADMINISTRATIVE CODE**

- Amend Bexar Met's enabling legislation to make receivership provisions found in Chapter 13, Water Code, and Chapter 291, Texas Administrative Code (TAC), applicable to Bexar Met.
- Option 2 requires providing that Bexar Met is a "water or sewer utility" for these purposes.
- Under a receivership arising from Sec. 13.412, Water Code, a temporary manager is appointed by the executive director of the commission (TCEQ) for a period of one year.

**OPTION 3. RECEIVERSHIP, ENFORCEMENT AND SUPERVISION UNDER CH. 36, WATER CODE (MORE STRINGENT THAN OPTION 2)**

- Amend Bexar Met's enabling legislation to apply Ch. 36, Water Code receivership provisions. By amending Bexar Met's enabling statute, other similar entities are not affected.
- Option 3 requires providing that Bexar Met would be considered a "district" as defined under Ch. 36, Water Code.
- CH. 36 generally pertains to groundwater conservation districts and grants TCEQ broad enforcement authority, up to and including authority to: Dissolve a district's board and call for an election of a new board; initiate receivership process; and recommend to the legislature any actions TCEQ deems necessary to accomplish comprehensive management in the district.
- NOTE: Sec. 36.001 defines a district in this chapter as any district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution that has the authority to regulate the spacing of water wells, the production from water wells, or both. Bex Met is created under the latter and does have authority to regulate its wellfields.

**OPTION 4. CH. 49, WATER CODE AUDITING AND SUPERVISION**

- Amend Bexar Met's enabling legislation to apply TCEQ's permissive audit and enforcement language in Ch. 49, Water Code mandatory only where Bexar Met is concerned.
- Also amend Bexar Met's enabling legislation to make other permissive auditing, supervision, and enforcement provisions in Ch. 49 mandatory for Bexar Met only.
- Option 2 would require that Bexar Met be considered a district as defined in Sec. 49.001, Chapter 49, Water Code.
- NOTE: Ch. 49 generally refers to river authorities.
- Ch. 49 provides permissive auditing power to the ED of the TCEQ in Subchapter G. for "districts." Districts are defined in Sec. 49.001, Chapter 49, Water Code as: "...any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law, any conservation and reclamation district created pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon's Texas Civil Statutes), or any conservation and reclamation district governed by Chapter 36 unless a special law

creating the district or amending the law creating the district states that this chapter applies to that district.

**OPTION 5. CONSERVATOR BOARD.** Recommend to the 81st Legislature that it create a conservator board and request that the court authorize or approve a process for the appointment of members to that conservator board. The Legislature would charge the conservator board with the following:

1. Not later than May 2010, complete a process to inventory and evaluate the 21 distinct water systems that make up Bexar Metropolitan Water District, and determine the following information for each system:
  - a. The District's basis in or the intrinsic value of the infrastructure associated with that water system.
  - b. The District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure in that water system.
  - c. The adequacy of the source of the water supply (e.g., wells, etc) located in each water system's service area to supply the current and projected demands generated in that service area.
  - d. The adequacy of the water storage facilities located in each water system's service area to supply the current and projected demands generated in that service area.
  - e. The adequacy of the distribution system located in each water system's service area to supply the current and projected demands generated in that service area.
  - f. Any other information that will facilitate a prudent and business-like assessment of the feasibility of selling that water system to a qualified purchaser.
2. Not later than October 2010, sell those systems that
  - a. If sold at a fair price, will improve the District's financial position, and
  - b. Can be feasibly served by another water utility
3. Approve the employment of a new General Manager. (Bexar Met should immediately suspend or modify its current efforts to employ a general manager to the extent that prospective applicants will be advised that the Conservator Board will interview and eventually employ the new General Manager.) The conservator board may employ an interim financial conservator if a General Manager is not or cannot be employed soon enough to complete Items 1 and 2 above on the stipulated schedule.
4. Oversee, ratify, supplement, amend, and if necessary, over-rule the actions of the elected board of the Bexar Metropolitan Water District
5. Not later than May 2009, and upon failure of the elected board of Bexar Met to do so, adopt a Water System Improvement Plan, generally as recommended by the New Mexico Environmental Finance Center in their report, "BexarMet Management and Performance Review – Final Report, August 2008," as amended to provide an implementation schedule.

6. Not later than November 2010, make a final recommendation to the Bexar Met Oversight Committee regarding the continuation of Bexar Met.

7. The conservator board shall be seated not later than May 31, 2009 and shall be comprised of the following:

- The Chairman shall be from or appointed by the Bexar County Commissioners Court
- One member from or appointed by the Atascosa County Commissioners Court
- One member from or appointed by the City of Hill Country Village City Council
- One member from or appointed by the City of Castle Hills City Council
- One member from or appointed by the City of San Antonio City Council

Should any entity refuse or otherwise fail to designate or appoint a member to the Conservator Board, the Court shall appoint an individual to fill that role.

The Conservator Board may not include any person then serving on the Board of Directors of the San Antonio Water System, Bexar Metropolitan Water District, or any entity having a financial interest in the possible sale or purchase of any Bexar Met water system.

**OPTION 6. CONSERVATOR BOARD/SARA SUPPORT.** Establish a Conservator Board to provide overall elected representation of the majority of BexarMet customers. Use SARA staff support, as well as Bexar County and BexarMet staff. The conservator board would consist of the following members:

- Five San Antonio River Authority (SARA) Board Members from Bexar County
- Two members from Bexar County Commissioner's Court representing Precincts 1 and 3 - BexarMet representatives

SARA Staff Support:

- SARA has expressed a willingness to support BexarMet
- SARA would not acquire any BexarMet assets
- SARA enabling legislation is similar to BexarMet's
- SARA administrative processes and procedures are similar to those BexaMet should follow
- SARA has well established and proven administrative processes and procedures
- SARA has the fundamental organization procedures in place
- SARA has planning strength
- SARA has been involved in water resources planning
- SARA maintains and operates a small utility
- SARA has financial and engineering support staff

Bexar County Support

- Bexar County Infrastructure Services Executive Director would provide technical and oversight support
- Infrastructure Services Executive Director would lead negotiations of the sale of any assets determined needed for disposition to improve financial condition of district

BexarMet Staff Role:

- BexarMet chief engineer would run day-to-day operations
- BexarMet chief engineer would report to the Conservator Board not BexarMet Board
- BexarMet chief engineer would work with SARA and Bexar County
- BexarMet chief engineer would guide implementation of needed improvements
- BexarMet chief engineer would continue improvements already started

Outside Consultants

- Should be kept to a minimum
- May be needed for financial analysis
- Currently working on project design and impact fee structures.

Challenges to Option 6 include:

- Achieving equal level of water service, both quality and quantity, equal to the rates of San Antonio Water System (SAWS)
- BexarMet debt to equity ratio of 70% of its assets, compared to SAWS of 50%
- Improving debt to equity ratio will be difficult
- Water rates must be higher to service that level of debt
- BexarMet rates are higher than those of SAWS and substantially higher for higher use customers, both residential and commercial
- It may take longer than customer expectations to achieve improved level of service
- Costs on operational improvements are unknown
- In repeat of drought conditions, SAWS assistance will be crucial

## **APPENDIX**

*The following materials are available via the Internet by clicking on the hyperlinks below:*

- I. SAO Audit Report (<http://www.sao.state.tx.us/reports/main/09-010.html>)
- II. TCEQ Reports (<http://www.senate.state.tx.us/75r/Senate/commit/c875/c875.htm>)
- III. [House Bill 1565, creating the Bexar Metropolitan Oversight Committee](#)
- IV. Resignation Letters (<http://www.senate.state.tx.us/75r/Senate/commit/c875/c875.htm>)