

Modified Straw Proposal

RURAL WATER SUPPLY DEVELOPMENT AND MANAGEMENT

September 2006

I. Introduction

- There was general agreement about the need for cities and counties outside of active management areas to have the authority to require the demonstration of water supply adequacy before a subdivision is approved.
- The concept of a Regional Water Management and Development District (District) was thought to be too broad. The water management requirements for a District are not necessary for some areas of the State, but water development funds may be needed in those areas. Also, a District that has water management authorities should not be created within AMAs because the District authorities may conflict with AMA law and regulation.
- The SWAG proposes that Districts with water management authorities be limited to a few critical areas. It was proposed that Pilot Districts be created in areas that request water supply development and augmentation and the necessary water management regulations to protect and facilitate water supply projects. The term 'Pilot Districts' was used in the context of forming one or perhaps two permanent districts as examples of regional management and development districts. In the sense that a 'pilot' is an experiment, trial and test of a concept, the Pilot Districts could provide experience in local multi-jurisdictional water development and management, but it seemed to be intended that the districts be permanent and not experimental. The term Pilot District is used throughout this straw proposal to connote the concept proposed on September 8, 2006. The term might be changed to be more descriptive as the concept is refined.
- With regards to district formation, proposals were made that a District could also be formed by the approval of all of the cities and town councils and the county board of supervisors, in addition to a general election. However, a Pilot District might simply be formed by statute, much like an initial AMA. A variation of statutory formation might be that the statutes authorize that a Pilot District be formed with particular boundaries, but that the formation must be authorized by county boards of supervisors and city councils. This model was used for the Phoenix Replenishment District.
- The boundaries of a District should not include areas that are outside of the jurisdiction of State or local regulation, such as federal or tribal reservations. A District may cooperate with such entities through an intergovernmental agreement or other means.

- Jurisdictional issues between AMAs and Districts were discussed. Districts should not be formed within AMAs for the purposes of water management. Districts for water resources development might be formed within the AMAs. There is a question whether Districts for water resources development could be formed within the 3 county CAP service area. Another question is whether the formation of a District would preclude the creation of an AMA. The formation of a District cannot affect surface water rights and law.
- A state fund for water supply development and enhancement was generally agreed to. The fund would provide long-term loans and grants in a manner similar to WIFA, but under rules and policies developed by statute. WIFA representatives indicated that it could administer such a fund separately from its EPA policies. However, a separate agency might be considered by the SWAG. The fund could be used for water supply projects, water quality and watershed enhancements that protect the water supply. The fund would be available to Districts for regional water supply development and enhancement. A District would not need to be formed to apply for loans or grants from the fund. The fund would be available to all individual cities, towns, water companies, county water improvement districts, and irrigation districts that serve domestic water, whether inside or outside districts.
- Criteria for the selection of projects were not discussed. Law might specify general criteria and specific criteria might be described by rule.

II. Water Supply Adequacy Requirements

- a. ADWR would determine water supply adequacy for all proposed subdivisions based on rules. The current rules may be amended to include specific hydrologic conditions for some groundwater basins, such as deep aquifer conditions, and to incorporate standards for consistency with a goal adopted by a Regional Water Management and Development District.
- b. ADWR shall make a determination that the proposed water supply for a subdivision is of adequate quantity and quality and continuously available for 100 years. ADWR may designate cities, towns and private water companies as having an adequate water supply for a specified amount of water use. ADWR's determination would be provided to the city, town, county, or Regional Water Management and Development District and the ADRE.
- c. Cities, towns, and counties may only approve a subdivision plat if the subdivider has obtained an ADWR determination of water supply adequacy, except in the case that a city, town or county has determined that the subdivider has legally acquired a source of water, and the project to supply the subdivision is under

development. A District may also adopt a water supply adequacy standard that allows approval based on an existing water allocation and a water supply project under development.

- d. Public notice shall be made available declaring that a subdivision was approved without an adequate water supply. The ADWR determination of inadequacy for existing subdivisions and future exceptions under subsection c. above shall be disclosed by all sellers of property to all potential buyers until such time that the water supply has been determined to be adequate.

III. Regional Water Management and Development District (Pilot Districts)

The formation of Regional Water Management and Development Districts (Pilot Districts) would be authorized by law for specific geo-hydrologic areas. A Pilot District would only be formed by legislative approval. The boundaries and goals of the Pilot District would be described by statute. The Pilot District would have the authority to manage water supplies within the region as well as develop, operate and maintain municipal and industrial water supply projects. The goals of a Pilot District must be defined prior to the establishment of a Pilot District. ADWR would be responsible for water rights and permits within the Pilot Districts.

IV. Powers and Duties of the Pilot District

Although a Pilot District is not proposed for an AMA at this time, the powers and duties are separated into AMA and non-AMA categories. All Pilot Districts would be authorized powers and duties to operate water supply projects within the district. Those Pilot Districts outside of AMAs would be authorized additional powers and duties to manage the water supplies within the district.

- a. **Powers and Duties for All Pilot Districts for the Operation of Water Supply Projects**
 - i. Acquire water rights, permits and water supply contracts
 - ii. Construct infrastructure for water resources projects
 - iii. Wholesale water
 - iv. Own and operate infrastructure including waste water reuse facilities
 - v. Enter into contracts, memorandums of understanding or intergovernmental agreements
 - vi. Shall assess water resource availability and prepare water resources plans consistent with the goals and objectives established for the Pilot District at the time of its creation
 - vii. May impose and collect fees to meet the goals and objectives of the Pilot District

- viii. Issue revenue bonds and repay debts
- ix. Hire staff
- x. Acquire real and personal property
- xi. Acquire energy resources to operate project facilities
- xii. Receive funds, gifts and donations
- xiii. Borrow money or receive grants from the state development fund if established

b. Additional Powers and Duties of a Pilot District Outside of an AMA

- i. Shall meter all non-exempt wells
- ii. Shall collect annual water use reports (information must be shared with ADWR)
- iii. Shall develop water adequacy standards that are consistent with the goal and objective of the Pilot District. (These standards shall be used by ADWR to determine water supply adequacy within the Pilot District boundaries)
- iv. May develop and implement conservation and management programs, including wastewater reuse. May, as needed:
 - 1. Establish mandatory conservation requirements
 - 2. Establish well spacing requirements
 - 3. Establish conditions on permits for new wells and withdrawals permits
 - 4. Establish wastewater reuse programs
- v. Establish replenishment requirements and take action to perform replenishment or recharge
- vi. Authority to set conditions on recharge and recovery permits

V. Boundaries

ADWR would propose boundaries based hydrologic and other considerations. A boundary may be smaller than a groundwater basin if a smaller area is more beneficial to water resources development and management. Areas may be excluded from a Pilot District if the land is not within the jurisdiction of State and local laws.

VI. Formation

A Pilot District would be formed by legislative authorization

Or,

A Pilot District would be authorized by statute, but require the approval of all cities and town councils and county boards of supervisors.

VII. Governance

- a. Board of Directors could consist of one elected official from each city and county(s). Or,
- b. The Board of Directors could be determined by statute.

VIII. Funding

- a. Water sales
- b. User fees
- c. Withdrawal fees
- d. Bonds and debt repayment
- e. State water development fund loans and grants
- f. Development impact fees
- g. Water replacement fees

IX. ADWR Role and Responsibility

- a. After establishment of a Pilot District, ADWR would establish a simplified groundwater withdrawal rights within the district boundaries
 - i. Existing groundwater withdrawal rights would be based on the highest use in the previous five year period
 - ii. Existing withdrawal rights may be assigned, transferred or moved to a new location within the Pilot District with the approval of ADWR. Considerations shall include well spacing requirements and consistency with the management goal of the district
- b. ADWR would receive annual reports from the Pilot District and would receive a portion of the withdrawal fees for administration purposes
- c. ADWR would establish well permit and withdrawal permit standards based on the Pilot District's requirements
- d. ADWR would establish groundwater recharge and recovery permit standards based on the Pilot District's requirements
- e. ADWR would establish exchange permit standards based on the Pilot District's requirements
- f. Transportation of water rights outside of groundwater basins shall be consistent with existing rules and law
- g. Collect hydrologic data and develop a groundwater models for all pilot districts

X. Straw Proposal for Water Development Fund

- a. A State Rural Water Development fund is proposed to be established and administered by a new agency for projects that cannot be funded from other sources such as WIFA.
- b. The fund should primarily be a revolving loan fund. Grants of limited size may be offered in certain cases. The criteria for issuing a grant will be set by statute and rule (no recommendation from SWAG, yet)
- c. The sources of funding would be an annual general fund appropriation perhaps supported by a specific revenue source. (Private water companies may be able to pass through a general sales tax to customers without the need for a rate case with the ACC.)
- d. Pilot Districts and all municipal providers, private water companies, domestic water improvement district and irrigation districts that supply domestic water are eligible to apply for a loan or a grant. Ranking criteria would be used to determine the distribution of funds
- e. Criteria for eligibility and ranking of applicants need to be developed. Example Criteria that might be considered:
 - Ranking criteria may include limits on the total amount available for grants
 - Criteria might be developed such as relative need for supplies, ability to repay loans, readiness of the project, etc.
 - The total amount of the annual fund might be limited to a fixed percentage of the total funds available for projects in the 3 county CAP service area.
 - Projects for Pilot Districts might be given priority over other projects.