

Texas should use market strategies to improve water conservation

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Opinion Piece By Melinda E. Taylor and Jeremy M. Brown

The Texas Supreme Court once observed that the "story of water law in Texas is also the story of its droughts." It should not be surprising, then, that with the state in the midst of a difficult drought and long-term supply shortages looming, a new chapter is being added to the story of Texas water law.

Gov. Rick Perry has voiced support for a growing cohort of legislators who are calling for a major infusion of state funding for new water infrastructure.

Meanwhile, the U.S. Supreme Court has agreed to hear an interstate dispute over rights to water in the Red River basin and is considering a complaint Texas filed against New Mexico over Rio Grande water. And local disputes are brewing over rights to water from the Brazos and Colorado.

For decades, leaders here have struggled to create a water regime that meets the evolving water needs of a vast, diverse and dynamic state.

Texans have long recognized the importance of conserving water. In 1917, Texas amended its constitution to provide that the "preservation and conservation" of water are "public rights and duties."

Thinking about conservation has evolved, too. Conservation of in-stream flows -- necessary for healthy rivers and estuaries -- would have been considered "waste" a few decades ago.

Since the 1990s, state and local governments have pursued an admirable and increasingly aggressive form of conservation intended to make water use more efficient.

These efforts have yielded significant benefits. Last year, the Alliance for Water Efficiency and the Environmental Law Institute ranked Texas and California as having the best water conservation laws and policies in the country.

Without these, the 2011 drought would have wrung much more pain and the supply shortfalls that the State Water Development Board has predicted would be much more ominous. Still, Texas can improve.

Many state leaders regard the 2012 State Water Plan as a starting point for policy discussions and a blueprint for solutions. The plan includes many new dams and reservoirs but relies on conservation and reuse for about a third of the added supplies needed by 2060. That underestimates the importance of conservation.

Conservation strategies are more cost-effective than new infrastructure, but they also involve financing challenges. And individual property owners have little reason apart from general public-spiritedness to implement practices without mandates or incentives.

Landlords, for instance, have no reason to invest their own money in low-flow fixtures that will cut utility costs for tenants; and factory owners who intend to sell their property in the near term may want to avoid the financial risk of installing water-saving machinery that will take time to pay for itself.

Well-designed legislation can overcome market barriers like these and allow economic incentives to drive conservation.

Across the country, state and local governments have already pioneered innovative programs that address barriers to energy efficiency. Given the many parallels -- and the connection -- between energy and water use, these programs could lend themselves to water conservation.

Texas already allows property owners to pay for certain energy improvements with financing secured by tax liens. And several states have experimented with programs that let utility customers repay energy efficiency loans through utility bills and secure the financing with liens on utility services. These techniques could be applied to water.

This session, the Legislature has the opportunity to promote the water security of Texas and ensure that inadequate water supplies do not sabotage an economic engine that other states have long marveled at and envied.

But to truly act upon this opportunity, the legislature must double down on its commitment to conservation and consider creative, market-based solutions. Fortunately, lawmakers can rely on proven policies that fit with the free enterprise ethos and property rights tradition of Texas.

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