

By: Perry

S.B. No. 2658

A BILL TO BE ENTITLED

AN ACT

relating to the production and study of brackish groundwater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 16.060(b) and (e), Water Code, are amended to read as follows:

(b) The board shall prepare a biennial progress report on the implementation of seawater or brackish groundwater desalination activities in the state and shall submit it to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year. The report shall include:

(1) results of the board's studies and activities relative to seawater or brackish groundwater desalination during the preceding biennium;

(2) identification and evaluation of research, regulatory, technical, and financial impediments to the implementation of seawater or brackish groundwater desalination projects;

(3) evaluation of the role the state should play in furthering the development of large-scale seawater or brackish groundwater desalination projects in the state;

(4) the anticipated appropriation from general revenues necessary to continue investigating water desalination activities in the state during the next biennium; and

(5) identification and designation of local or regional brackish groundwater production zones in areas of the state with moderate to high availability and productivity of brackish groundwater that can be used to reduce the use of fresh groundwater and that:

(A) are separated by hydrogeologic barriers sufficient to prevent significant impacts to water availability or water quality in any area of the same or other aquifers, subdivisions of aquifers, or geologic strata that have an average total dissolved solids level of 1,000 milligrams per liter or less at the time of designation of the zones; and

(B) are not located in:

(i) an area of the Edwards Aquifer subject to the jurisdiction of the Edwards Aquifer Authority;

(ii) the boundaries of the:

(a) Barton Springs-Edwards Aquifer Conservation District;

(b) Harris-Galveston Subsidence District; or

(c) Fort Bend Subsidence District; or

(iii) an aquifer, subdivision of an aquifer, or geologic stratum that:

(a) has an average total dissolved solids level of more than 1,000 milligrams per liter; and

(b) is serving as a significant source of water supply for municipal, domestic, or agricultural purposes at the time of designation of the zones[~~, or~~

1 ~~[(iv) an area of a geologic stratum that is~~
2 ~~designated or used for wastewater injection through the use of~~
3 ~~injection wells or disposal wells permitted under Chapter 27].~~

4 (e) In designating a brackish groundwater production zone
5 under this section, the board shall:

6 (1) determine the amount of brackish groundwater that
7 the zone is capable of producing over a 30-year period and a 50-year
8 period without causing a significant impact to water availability
9 or water quality as described by Subsection (b)(5)(A); and

10 (2) include in the designation description:

11 (A) the amounts of brackish groundwater that the
12 zone is capable of producing during the periods described by
13 Subdivision (1); ~~and~~

14 (B) recommendations regarding reasonable
15 monitoring to observe the effects of brackish groundwater
16 production within the zone;

17 (C) an allocation of the available amounts of
18 brackish groundwater identified in Paragraph (A) to each
19 groundwater conservation district and county located in the zone;
20 and

21 (D) a description of any area of a geologic
22 stratum in the zone that is designated or used for wastewater
23 injection through the use of injection or disposal wells permitted
24 under Chapter 27.

25 SECTION 2. Section 36.117, Water Code, is amended by
26 amending Subsections (b) and (d) and adding Subsections (e-1),
27 (e-2), (e-3), and (k-1) to read as follows:

(b) Except as provided by this section, a district shall provide an exemption from the district requirement to obtain a permit for:

(1) drilling or operating a well used solely for domestic use or for providing water for livestock or poultry if the well is:

(A) located or to be located on a tract of land larger than 10 acres; and

(B) drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) drilling a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig;

(3) drilling a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water; ~~or~~

(4) drilling a water well for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district; or

(5) drilling or operating a well for the withdrawal of

groundwater from a designated brackish groundwater production zone, as defined by Section 36.1015, if:

(A) the operator of the well provides the district with documentation:

(i) from an environmental testing laboratory accredited under commission rules for water quality analysis in permitting decisions demonstrating that the well produces water with a total dissolved solids concentration of at least 3,000 milligrams per liter; and

(ii) showing that the operator has acquired a real property interest in the groundwater described by this paragraph underlying each tract of land within the spacing area assigned to the well or the spacing distances required for the drilling of other wells, as applicable, under the well spacing rules of the district; and

(B) total brackish groundwater production from the area of the designated brackish groundwater production zone located in the district would not exceed the applicable estimated withdrawal amounts allocated to the district by the Texas Water Development Board pursuant to Section 16.060(e)(2)(C).

(d) A district may cancel a previously granted exemption and may require an operating permit for or restrict production from a well and assess any appropriate fees if:

(1) the groundwater withdrawals that were exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the groundwater withdrawals that were exempted

1 under Subsection (b)(2) are no longer used solely to supply water
2 for a rig that is actively engaged in drilling or exploration
3 operations for an oil or gas well permitted by the Railroad
4 Commission of Texas;

5 (3) the groundwater withdrawals that were exempted
6 under Subsection (b)(3) are no longer necessary for mining
7 activities or are greater than the amount necessary for mining
8 activities specified in the permit issued by the Railroad
9 Commission of Texas under Chapter 134, Natural Resources Code; ~~or~~

10 (4) the groundwater withdrawals that were exempted
11 under Subsection (b)(4) are no longer used solely to supply water
12 for a rig that is actively engaged in drilling a groundwater
13 production well permitted by the district; or

14 (5) for groundwater withdrawals that were exempted
15 under Subsection (b)(5):

16 (A) the withdrawals are no longer from a
17 designated brackish groundwater production zone, as defined by
18 Section 36.1015; or

19 (B) the groundwater produced no longer has an
20 average total dissolved solids concentration of 3,000 milligrams
21 per liter or more.

22 (e-1) A person owning or operating a well withdrawing water
23 from a brackish groundwater production zone that is exempt from the
24 requirement to obtain a permit under Subsection (b)(5) shall:

25 (1) implement a monitoring system approved by the
26 district that accomplishes the purposes of Sections 36.1015(e)(4)
27 and (5); and

1 (2) submit an annual report to the district that
2 contains the information required by Section 36.1015(e)(6).

3 (e-2) Before approving a proposed monitoring system under
4 Subsection (e-1), the district shall consult with the Texas Water
5 Development Board to ensure that the proposed monitoring system
6 aligns with the recommendations provided under Section
7 16.060(e)(2)(B) and with Sections 36.1015(e)(4) and (5). The
8 district shall provide each report required under Subsection
9 (e-1)(2) to the development board.

10 (e-3) A district may cancel a previously granted exemption
11 granted in accordance with Subsection (b)(5) and may require an
12 operating permit for or restrict production from a well if:

13 (1) the person who owns or operates the well fails to:

14 (A) implement and maintain the monitoring system
15 required under Subsection (e-1)(1); or

16 (B) submit an annual report as required under
17 Subsection (e-1)(2); or

18 (2) the district finds by a preponderance of the
19 evidence, based on data from the monitoring system required under
20 Subsection (e-1)(1), that the production of water from the brackish
21 groundwater production zone:

22 (A) is negatively impacting or is likely to
23 negatively impact water quality in an adjacent aquifer, subdivision
24 of an aquifer, or geologic stratum; or

25 (B) is causing or is likely to cause subsidence.

26 (k-1) Notwithstanding Subsection (k) or any other law, a
27 district may not subject water withdrawn from a well exempted from a

1 permit requirement by Subsection (b)(5) to a transport or export
2 fee greater than 10 cents per thousand gallons of transported or
3 exported water.

4 SECTION 3. Section 36.205, Water Code, is amended by adding
5 Subsection (h) to read as follows:

6 (h) A district may not assess a production fee under this
7 section for any water produced under an exemption under Section
8 36.117(b)(5).

9 SECTION 4. The Texas Water Development Board shall make any
10 identifications of, redesignations of, or adjustments to brackish
11 groundwater production zones as necessary to comply with the
12 changes in law made by this Act in Section 16.060, Water Code, using
13 staff, contractors, equipment, and data acquired by the board
14 before September 1, 2025.

15 SECTION 5. Sections 36.117(k-1) and 36.205(h), Water Code,
16 as added by this Act, apply only to water withdrawn from a well on or
17 after the effective date of this Act. Water withdrawn from a well
18 before the effective date of this Act is governed by the law in
19 effect on the date the water is withdrawn, and the former law is
20 continued in effect for that purpose.

21 SECTION 6. This Act takes effect September 1, 2025.