

## **BILL ANALYSIS**

H.B. 2654  
By: Puente  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Governor's Desalination Initiative and EPA's new drinking water standards have created the need to address the management of concentrate resulting from the desalination of saline and brackish water sources and the management of residuals from the treatment of drinking water to meet the EPA drinking water standards.

The use of injection wells under the Underground Injection Control (UIC) Program is an option for addressing the concentrate from desalination and drinking water treatment residuals.

H.B. 2654 would amend the Texas Water Code Chapter 27 and Health and Safety Code Chapter 361 to remove impediments to the use of certain types of injection wells. Specifically, H.B. 2654 amends Texas Water Code Chapter 27 to allow the Railroad Commission to authorize the injection of nonhazardous desalination brine or drinking water treatment residuals for enhanced recovery of oil and gas without a permit from the TCEQ. H.B. 2654 also allows the TCEQ to create a general permit for the injection of nonhazardous desalination brine or drinking water treatment residuals by creating general permitting requirements in Texas Water Code Chapter 27 and amending a Texas Health and Safety Code § 361.086 requirement for a separate permit for each solid waste facility

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 of this bill.

### **ANALYSIS**

SECTION 1. Amends the heading of Section 27.021, Water Code to read as follows: PERMIT FOR DISPOSAL OF BRINE FROM DESALINATION OPERATIONS OR OF DRINKING WATER TREATMENT RESIDUALS IN CLASS I INJECTION WELLS.

SECTION 2. Section 27.021 (a), Water Code, is amended to authorize the commission to issue a permit to dispose of brine produced by a desalination operation or of drinking water treatment residuals in a Class I injection well if the applicant for the permit meets all the statutory and regulatory requirements for the issuance of a permit for a Class I injection well.

SECTION 3. Amends Section 27.023, Water Code, to create the general permit authorizing use of Class I injection wells to inject nonhazardous brine from desalination operations or nonhazardous drinking water treatment residuals.

(a) Authorizes the commission to issue a general permit to authorize the injection of nonhazardous brine from desalination operation or nonhazardous drinking water treatment residuals into a Class I injection well if it determines that injection wells and injection activities are more appropriately regulated under a general permit than under an individual permit based on findings that:

- (1) The general permit has been drafted to assure that it can be readily enforced and the commission can adequately monitor compliance with the terms of the general permit; and
- (2) The general permit will contain proper safeguards to protect ground and surface fresh water from pollution.

(b) Requires the commission to publish notice in a newspaper and the Texas Register. The notice must include an invitation for written comments by the public to the commission regarding the proposed general permit and is required to be published not later than the 30th day before the date the commission adopts the general permit. The commission by rule may require additional notice to be given.

(c) Authorizes the commission to hold a public meeting to provide an additional opportunity for public comment and requires the commission to give notice of the public meeting by publication in the Texas Register not later than the 30th day before the date of the meeting.

(d) Requires the commission to issue a written response to comments on the general permit at the same time the commission issues or denies the permit. The response to comments is available to the public and is required to be mailed to each person who made a comment.

(e) Provides that a general permit may provide that an owner of a Class I injection well injecting nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals may obtain authorization for the injection well under a general permit by submitting to the commission written notice of intent. The commission by rule shall establish the requirements for the notice of intent, including the information that an owner of an injection well subject to a general permit must submit to authorize the use of the well under the general permit. A general permit may authorize the use of an injection well under the general permit on filing a complete and accurate notice of intent, including all information required by the commission's rules to be submitted, or it may specify a date or period of time after the commission receives the notice of intent, including the required information, on which the use of an injection well is authorized unless the executive director before that time notifies the owner that it is not eligible under the general permit.

(f) Provides that authorization for the use of an injection well under a general permit does not confer a vested right. After written notice to the owner of an injection well, the executive director may suspend authorization for the use of the well under a general permit and may require the owner to obtain authorization for the use of the well under an individual permit.

(g) Requires the commission, after hearing, to deny or suspend authorization for the use of an injection well under a general permit if the commission determines that the owner's compliance history is in the lowest classification under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to the requirements relating to a contested case under Chapter 2001, Government Code.

(h) Provides that a general permit may be issued for a term not to exceed 10 years. After notice and comment a general permit may be amended, revoked or canceled by the commission or renewed by the commission for an additional term or terms not to exceed 10 years each. A general permit remains in effect until amended, revoked, or canceled by the commission or, unless renewed by the commission, until expired. If before a general permit expires the commission proposes to renew that general permit, that general permit remains in effect until the date on which the commission takes final action on the proposed renewal.

(i) Provides that the commission may add or delete requirements for a general permit through a renewal or amendment process. The commission is required to provide a reasonable time to allow an owner of an injection well to make the changes necessary to comply with the additional requirements.

(j) Provides that the commission may impose a fee for the submission of a notice of intent to be covered by the general permit. The fee must be in the same amount as a fee collected under Section 27.014.

(k) Provides that the issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit or the authorization for the use of an injection well under a general permit is not subject to the requirements relating to a contested case hearing under Chapter 2001, Government Code.

(l) Provides that the use or disposal of radioactive material under this section is subject to the applicable requirements of Chapter 401, Health and Safety Code.

(m) Provides that the commission may adopt rules as necessary to implement and administer this section.

SECTION 4. Amends Section 27.0511, Water Code, Subsection (g) and adds Subsection (h), to allow the railroad commission to authorize a person to utilize nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without first obtaining a permit from the commission. The use or disposal of radioactive material under this subsection is subject to the applicable requirements of Chapter 401, Health and Safety Code.

SECTION 5. Amends Section 361.086, Health and Safety Code, Subsection (a) and adds Subsection (d) as follows:

(a) Except as provided by Subsection (d), a separate permit is required for each solid waste facility.

(d) A separate permit is not required for activities authorized by a general permit under Chapter 27.014, Water Code.

SECTION 6. Amends Section 27.014, Water Code requires the commission to collect a fee in the amount provided by and under the terms of Section 5.701 rather than 5.235.

SECTION 7. This Act takes effect September 1, 2007.

**EFFECTIVE DATE**

September 1, 2007.