

BILL ANALYSIS

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S.B. 1343
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, impediments exist for the use of certain types of injection wells, specifically for the injection of nonhazardous desalination brine or drinking water treatment residuals. The governor's desalination initiative and the United States Environmental Protection Agency's (EPA) new drinking water standards have created a 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 in order to meet the EPA drinking water standards. The use of injection wells under the Underground Injection Control Program is an option for addressing this issue.

As proposed, S.B. 1343 authorizes the Texas Commission on Environmental Quality (TCEQ) to create a general permit for the injection of nonhazardous desalination brine or drinking water treatment residuals. This bill also authorizes the Railroad Commission of Texas to authorize the injection of nonhazardous desalination brine or drinking water treatment residuals for enhanced recovery of oil and gas without first obtaining a permit from TCEQ.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 (Section 27.023, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 27.021, Water Code, to read as follows:

Sec. 27.021. PERMIT FOR DISPOSAL OF BRINE FROM DESALINATION OPERATIONS OR OF DRINKING WATER TREATMENT RESIDUALS IN CLASS I INJECTION WELLS.

SECTION 2. Amends Section 27.021(a), Water Code, to authorize the Texas Commission on Environmental Quality (TCEQ) to issue a permit to dispose 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 Subchapter B, Chapter 27, Water Code, by adding Section 27.023, as follows:

Sec. 27.023. GENERAL PERMIT AUTHORIZING USE OF CLASS I INJECTION WELL TO INJECT NONHAZARDOUS BRINE FROM DESALINATION OPERATIONS OR NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a) Authorizes TCEQ to issue a general permit authorizing the use of a Class I injection well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals if TCEQ determines that the injection well and injection activities are more appropriately regulated under a general permit than under an individual permit based on certain findings.

(b) Requires TCEQ to publish notice of a proposed general permit in one or more newspapers of statewide or regional circulation and in the Texas Register. Requires the notice to include an invitation for written comments by the public to TCEQ regarding the proposed general permit and to be published not later than

the 30th day before the date TCEQ adopts the general permit. Authorizes TCEQ by rule to require additional notice to be given.

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

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

(e) Authorizes a general permit to provide that an owner of a Class I injection well is authorized to obtain authorization to use the well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals under a general permit by submitting to TCEQ written notice of intent to be covered by the general permit. Requires TCEQ by rule to establish the requirements for the notice of intent, including the information that an owner of an injection well subject to a general permit is required to submit to authorize the use of the well under the general permit. Authorizes a general permit to 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 TCEQ's rules to be submitted, or a general permit is authorized to specify a date or period of time after TCEQ receives the notice of intent, including the required information, on which the use of an injection well is authorized unless the executive director of TCEQ (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. Authorizes the executive director, after written notice to the owner of an injection well, to suspend authorization for the use of the well under a general permit and require the owner to obtain authorization for the use of the well under an individual permit.

(g) Requires TCEQ, after hearing, to deny or suspend authorization for the use of an injection well under a general permit if TCEQ determines that the owner's compliance history is in the lowest classification under Section 5.753 (Standard for Evaluating Compliance History) and Section 5.754 (Classification and Use of Compliance History) and rules adopted and procedures developed under those sections, notwithstanding the other provisions of this chapter (Injection Wells). Provides that a hearing under this subsection is not subject to the requirements relating to a contested case hearing under Chapter 2001 (Administrative Procedure), Government Code.

(h) Authorizes a general permit to be issued for a term not to exceed 10 years. Authorizes a general permit, after notice and comment provided by Subsections (b)-(d), to be amended, revoked, or canceled by TCEQ or renewed by TCEQ for an additional term or terms not to exceed 10 years each. Provides that a general permit remains in effect until amended, revoked, or canceled by TCEQ or, unless renewed by TCEQ, until expired. Provides that if before a general permit expires TCEQ proposes to renew that general permit, the general permit remains in effect until the date on which TCEQ takes final action on the proposed renewal.

(i) Authorizes TCEQ to add or delete requirements for a general permit through a renewal or amendment process. Requires TCEQ 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) Authorizes TCEQ to impose a fee for the submission of a notice of intent to be covered by the general permit. Requires the fee to 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 (Radioactive Materials and Other Sources of Radiation), Health and Safety Code.

(m) Authorizes TCEQ to adopt rules as necessary to implement and administer this section.

SECTION 4. Amends Section 27.0511, Water Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Makes a conforming change.

(h) Authorizes the Railroad Commission of Texas 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 TCEQ. Provides that the use or disposal of radioactive material under this section (Conditions of Certain Permits) is subject to the applicable requirements of Chapter 401 (Radioactive Materials and Other Sources of Radiation), Health and Safety Code.

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

(a) Makes a conforming change.

(d) Provides that a separate permit for each solid waste facility is not required for activities authorized by a general permit issued under Section 27.023, Water Code.

SECTION 6. Amends Section 27.014, Water Code, as follows:

Sec. 27.014. APPLICATION FEE. Requires TCEQ, with each application for a disposal well permit, to collect a fee in the amount provided by and under the terms of Section 5.701 (Fees), rather than Section 5.235.

SECTION 7. Effective date: September 1, 2007.