

1-1 By: Puentes (Senate Sponsor - Duncan) H.B. No. 2654  
1-2 (In the Senate - Received from the House May 7, 2007;  
1-3 May 8, 2007, read first time and referred to Committee on Natural  
1-4 Resources; May 18, 2007, reported favorably by the following vote:  
1-5 Yeas 11, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the regulation of the use of an injection well to inject  
1-9 nonhazardous brine from a desalination operation or to inject  
1-10 nonhazardous drinking water treatment residuals.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. The heading to Section 27.021, Water Code, is  
1-13 amended to read as follows:

1-14 Sec. 27.021. PERMIT FOR DISPOSAL OF BRINE FROM DESALINATION  
1-15 OPERATIONS OR OF DRINKING WATER TREATMENT RESIDUALS IN CLASS I  
1-16 INJECTION WELLS.

1-17 SECTION 2. Section 27.021(a), Water Code, is amended to  
1-18 read as follows:

1-19 (a) The commission may issue a permit to dispose of brine  
1-20 produced by a desalination operation or of drinking water treatment  
1-21 residuals in a Class I injection well if the applicant for the  
1-22 permit meets all the statutory and regulatory requirements for the  
1-23 issuance of a permit for a Class I injection well.

1-24 SECTION 3. Subchapter B, Chapter 27, Water Code, is amended  
1-25 by adding Section 27.023 to read as follows:

1-26 Sec. 27.023. GENERAL PERMIT AUTHORIZING USE OF CLASS I  
1-27 INJECTION WELL TO INJECT NONHAZARDOUS BRINE FROM DESALINATION  
1-28 OPERATIONS OR NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a)  
1-29 The commission may issue a general permit authorizing the use of a  
1-30 Class I injection well to inject nonhazardous brine from a  
1-31 desalination operation or to inject nonhazardous drinking water  
1-32 treatment residuals if the commission determines that the injection  
1-33 well and injection activities are more appropriately regulated  
1-34 under a general permit than under an individual permit based on  
1-35 findings that:

1-36 (1) the general permit has been drafted to ensure that  
1-37 it can be readily enforced and that the commission can adequately  
1-38 monitor compliance with the terms of the general permit; and

1-39 (2) the general permit will contain proper safeguards  
1-40 to protect ground and surface fresh water from pollution.

1-41 (b) The commission shall publish notice of a proposed  
1-42 general permit in one or more newspapers of statewide or regional  
1-43 circulation and in the Texas Register. The notice must include an  
1-44 invitation for written comments by the public to the commission  
1-45 regarding the proposed general permit and shall be published not  
1-46 later than the 30th day before the date the commission adopts the  
1-47 general permit. The commission by rule may require additional  
1-48 notice to be given.

1-49 (c) The commission may hold a public meeting to provide an  
1-50 additional opportunity for public comment. The commission shall  
1-51 give notice of the public meeting under this subsection by  
1-52 publication in the Texas Register not later than the 30th day before  
1-53 the date of the meeting.

1-54 (d) The commission shall issue a written response to  
1-55 comments on the general permit at the same time the commission  
1-56 issues or denies the permit. The response to comments is available  
1-57 to the public and shall be mailed to each person who made a comment.

1-58 (e) A general permit may provide that an owner of a Class I  
1-59 injection well may obtain authorization to use the well to inject  
1-60 nonhazardous brine from a desalination operation or to inject  
1-61 nonhazardous drinking water treatment residuals under a general  
1-62 permit by submitting to the commission written notice of intent to  
1-63 be covered by the general permit. The commission by rule shall  
1-64 establish the requirements for the notice of intent, including the

2-1 information that an owner of an injection well subject to a general  
2-2 permit must submit to authorize the use of the well under the  
2-3 general permit. A general permit may authorize the use of an  
2-4 injection well under the general permit on filing a complete and  
2-5 accurate notice of intent, including all information required by  
2-6 the commission's rules to be submitted, or it may specify a date or  
2-7 period of time after the commission receives the notice of intent,  
2-8 including the required information, on which the use of an  
2-9 injection well is authorized unless the executive director before  
2-10 that time notifies the owner that it is not eligible under the  
2-11 general permit.

2-12 (f) Authorization for the use of an injection well under a  
2-13 general permit does not confer a vested right. After written notice  
2-14 to the owner of an injection well, the executive director may  
2-15 suspend authorization for the use of the well under a general permit  
2-16 and may require the owner to obtain authorization for the use of the  
2-17 well under an individual permit.

2-18 (g) Notwithstanding the other provisions of this chapter,  
2-19 the commission, after hearing, shall deny or suspend authorization  
2-20 for the use of an injection well under a general permit if the  
2-21 commission determines that the owner's compliance history is in the  
2-22 lowest classification under Sections 5.753 and 5.754 and rules  
2-23 adopted and procedures developed under those sections. A hearing  
2-24 under this subsection is not subject to the requirements relating  
2-25 to a contested case hearing under Chapter 2001, Government Code.

2-26 (h) A general permit may be issued for a term not to exceed  
2-27 10 years. After notice and comment as provided by Subsections  
2-28 (b)-(d), a general permit may be amended, revoked, or canceled by  
2-29 the commission or renewed by the commission for an additional term  
2-30 or terms not to exceed 10 years each. A general permit remains in  
2-31 effect until amended, revoked, or canceled by the commission or,  
2-32 unless renewed by the commission, until expired. If before a  
2-33 general permit expires the commission proposes to renew that  
2-34 general permit, that general permit remains in effect until the  
2-35 date on which the commission takes final action on the proposed  
2-36 renewal.

2-37 (i) The commission may add or delete requirements for a  
2-38 general permit through a renewal or amendment process. The  
2-39 commission shall provide a reasonable time to allow an owner of an  
2-40 injection well to make the changes necessary to comply with the  
2-41 additional requirements.

2-42 (j) The commission may impose a fee for the submission of a  
2-43 notice of intent to be covered by the general permit. The fee must  
2-44 be in the same amount as a fee collected under Section 27.014.

2-45 (k) The issuance, amendment, renewal, suspension,  
2-46 revocation, or cancellation of a general permit or the  
2-47 authorization for the use of an injection well under a general  
2-48 permit is not subject to the requirements relating to a contested  
2-49 case hearing under Chapter 2001, Government Code.

2-50 (l) The use or disposal of radioactive material under this  
2-51 section is subject to the applicable requirements of Chapter 401,  
2-52 Health and Safety Code.

2-53 (m) The commission may adopt rules as necessary to implement  
2-54 and administer this section.

2-55 SECTION 4. Section 27.0511, Water Code, is amended by  
2-56 amending Subsection (g) and adding Subsection (h) to read as  
2-57 follows:

2-58 (g) Except as provided by Subsection (h), a [No] person may  
2-59 not continue utilizing or begin utilizing industrial or municipal  
2-60 waste as an injection fluid for enhanced recovery purposes without  
2-61 first obtaining a permit from the commission.

2-62 (h) The railroad commission may authorize a person to  
2-63 utilize nonhazardous brine from a desalination operation or  
2-64 nonhazardous drinking water treatment residuals as an injection  
2-65 fluid for enhanced recovery purposes without first obtaining a  
2-66 permit from the commission. The use or disposal of radioactive  
2-67 material under this subsection is subject to the applicable  
2-68 requirements of Chapter 401, Health and Safety Code.

2-69 SECTION 5. Section 361.086, Health and Safety Code, is

3-1 amended by amending Subsection (a) and adding Subsection (d) to  
3-2 read as follows:

3-3 (a) Except as provided by Subsection (d), a [A] separate  
3-4 permit is required for each solid waste facility.

3-5 (d) A separate permit is not required for activities  
3-6 authorized by a general permit issued under Section 27.023, Water  
3-7 Code.

3-8 SECTION 6. Section 27.014, Water Code, is amended to read as  
3-9 follows:

3-10 Sec. 27.014. APPLICATION FEE. With each application for a  
3-11 disposal well permit, the commission shall collect a fee in the  
3-12 amount provided by and under the terms of Section 5.701 [~~5.235~~].

3-13 SECTION 7. This Act takes effect September 1, 2007.

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