

By: Larson

H.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to the development of brackish groundwater.

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

SECTION 1. Section 16.053(e), Water Code, is amended to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions adopted under Section 36.108 for the relevant aquifers located in the regional water planning area as of the date the board most recently adopted a state water plan under Section 16.051 or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan;

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of modeled available groundwater in accordance with the guidelines provided by the

1 development board under Subsections (d) and (f);

2 (B) factors specific to each source of water
3 supply to be considered in determining whether to initiate a
4 drought response;

5 (C) actions to be taken as part of the response;
6 and

7 (D) existing major water infrastructure
8 facilities that may be used for interconnections in the event of an
9 emergency shortage of water;

10 (4) has specific provisions for water management
11 strategies to be used during a drought of record;

12 (5) includes but is not limited to consideration of
13 the following:

14 (A) any existing water or drought planning
15 efforts addressing all or a portion of the region;

16 (B) approved groundwater conservation district
17 management plans and other plans submitted under Section 16.054;

18 (C) all potentially feasible water management
19 strategies, including but not limited to improved conservation,
20 reuse, and management of existing water supplies, conjunctive use,
21 acquisition of available existing water supplies, and development
22 of new water supplies;

23 (D) protection of existing water rights in the
24 region;

25 (E) opportunities for and the benefits of
26 developing regional water supply facilities or providing regional
27 management of water supply facilities;

1 (F) appropriate provision for environmental
2 water needs and for the effect of upstream development on the bays,
3 estuaries, and arms of the Gulf of Mexico and the effect of plans on
4 navigation;

5 (G) provisions in Section 11.085(k)(1) if
6 interbasin transfers are contemplated;

7 (H) voluntary transfer of water within the region
8 using, but not limited to, regional water banks, sales, leases,
9 options, subordination agreements, and financing agreements; ~~and~~

10 (I) emergency transfer of water under Section
11 11.139, including information on the part of each permit, certified
12 filing, or certificate of adjudication for nonmunicipal use in the
13 region that may be transferred without causing unreasonable damage
14 to the property of the nonmunicipal water rights holder; and

15 (J) opportunities for and the benefits of
16 developing large-scale desalination facilities for brackish
17 groundwater or seawater that serve local or regional brackish
18 groundwater production zones identified or designated under
19 Section 16.060(b)(5);

20 (6) identifies river and stream segments of unique
21 ecological value and sites of unique value for the construction of
22 reservoirs that the regional water planning group recommends for
23 protection under Section 16.051;

24 (7) assesses the impact of the plan on unique river and
25 stream segments identified in Subdivision (6) if the regional water
26 planning group or the legislature determines that a site of unique
27 ecological value exists;

1 (8) describes the impact of proposed water projects on
2 water quality; and

3 (9) includes information on:

4 (A) projected water use and conservation in the
5 regional water planning area; and

6 (B) the implementation of state and regional
7 water plan projects, including water conservation strategies,
8 necessary to meet the state's projected water demands.

9 SECTION 2. Section 16.060, Water Code, is amended by
10 amending Subsections (a) and (b) and adding Subsection (d) to read
11 as follows:

12 (a) The board shall undertake or participate in research,
13 feasibility and facility planning studies, investigations, and
14 surveys as it considers necessary to further the development of
15 cost-effective water supplies from seawater or brackish
16 groundwater desalination in the state.

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

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

26 (2) identification and evaluation of research,
27 regulatory, technical, and financial impediments to the

1 implementation of seawater or brackish groundwater desalination
2 projects;

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

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

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

14 (A) are separated by hydrogeologic barriers
15 sufficient to prevent significant impacts to water availability or
16 water quality in other aquifers, subdivisions of aquifers, or
17 geologic stratum;

18 (B) are not, at the time of designation as a
19 brackish groundwater production zone, serving as a primary water
20 supply for any purpose other than supplying a desalination project;
21 and

22 (C) are not located:

23 (i) in areas determined to be susceptible
24 to subsidence; or

25 (ii) in the Edwards Aquifer and within the
26 boundaries of the Edwards Aquifer Authority.

27 (d) The board shall work together with groundwater

1 conservation districts and stakeholders and shall consider the
2 Brackish Groundwater Manual for Texas Regional Water Planning
3 Groups, and any updates to the manual, and other relevant
4 scientific data or findings when identifying and designating
5 brackish groundwater production zones under Subsection (b)(5).

6 SECTION 3. Subchapter D, Chapter 36, Water Code, is amended
7 by adding Section 36.1015 to read as follows:

8 Sec. 36.1015. RULES FOR PERMITS IN BRACKISH GROUNDWATER
9 PRODUCTION ZONES. (a) In this section, "designated brackish
10 groundwater production zone" means an aquifer, subdivision of an
11 aquifer, or geologic stratum designated under Section
12 16.060(b)(5).

13 (b) On receipt of a petition from a person with a legally
14 defined interest in groundwater in the district, a district located
15 over any part of a designated brackish groundwater production zone
16 shall adopt rules for the issuance of permits to withdraw brackish
17 groundwater from a well in a designated brackish groundwater
18 production zone for a project designed to treat brackish
19 groundwater to drinking water standards. The rules must:

20 (1) allow permitted withdrawals and rates of
21 withdrawal of brackish groundwater from a designated brackish
22 groundwater production zone;

23 (2) provide for a minimum term for a permit issued for
24 a well that produces brackish groundwater from a designated
25 brackish groundwater production zone that is consistent with
26 available commercial financing terms;

27 (3) require reasonable monitoring of an aquifer,

1 subdivision of an aquifer, or geologic stratum adjacent to a
2 designated brackish groundwater production zone;

3 (4) allow the district to amend a permit issued under
4 rules adopted under this section following receipt of a report
5 requested under Subsection (c); and

6 (5) require reports from the holder of a permit issued
7 under rules adopted under this section that must include:

8 (A) the amount of brackish groundwater
9 withdrawn;

10 (B) the average monthly water quality of the
11 brackish groundwater withdrawn; and

12 (C) aquifer levels in both the designated
13 brackish groundwater production zone and in any aquifer,
14 subdivision of the aquifer, or geologic stratum for which the
15 permit requires monitoring.

16 (c) The district shall provide the reports required under
17 Subsection (b)(5) to the Texas Water Development Board. On request
18 from the district, the development board shall investigate and
19 issue a report on whether brackish groundwater withdrawals from the
20 designated brackish groundwater production zone are causing:

21 (1) significant aquifer level declines; or

22 (2) adverse impacts to water quality in an aquifer,
23 subdivision of an aquifer, or geologic stratum.

24 (d) After receiving a report requested under Subsection
25 (c), the district may, after notice and hearing:

26 (1) amend the applicable permit to establish a
27 production limit necessary to mitigate any impacts identified by

1 the report;

2 (2) approve a mitigation plan that alleviates any
3 adverse impacts identified by the report; or

4 (3) both amend the permit to establish a production
5 limit and approve a mitigation plan.

6 SECTION 4. Section 36.1071(a), Water Code, is amended to
7 read as follows:

8 (a) Following notice and hearing, the district shall, in
9 coordination with surface water management entities on a regional
10 basis, develop a management plan that addresses the following
11 management goals, as applicable:

12 (1) providing the most efficient use of groundwater;
13 (2) controlling and preventing waste of groundwater;
14 (3) controlling and preventing subsidence;
15 (4) addressing conjunctive surface water management
16 issues;

17 (5) addressing natural resource issues;
18 (6) addressing drought conditions;
19 (7) addressing conservation, recharge enhancement,
20 rainwater harvesting, precipitation enhancement, or brush control,
21 where appropriate and cost-effective; ~~and~~

22 (8) addressing the desired future conditions adopted
23 by the district under Section 36.108; and

24 (9) identifying goals for the development of brackish
25 groundwater desalination strategies in designated brackish
26 groundwater production zones.

27 SECTION 5. Section 36.108(d-2), Water Code, is amended to

1 read as follows:

2 (d-2) The desired future conditions proposed under
3 Subsection (d) must provide a balance between the highest
4 practicable level of groundwater production and the conservation,
5 preservation, protection, recharging, and prevention of waste of
6 groundwater and control of subsidence in the management area. The
7 desired future condition does not apply to brackish groundwater
8 production in designated brackish groundwater production zones.

9 This subsection does not prohibit the establishment of desired
10 future conditions that provide for the reasonable long-term
11 management of groundwater resources consistent with the management
12 goals under Section 36.1071(a). The desired future conditions
13 proposed under Subsection (d) must be approved by a two-thirds vote
14 of all the district representatives for distribution to the
15 districts in the management area. A period of not less than 90 days
16 for public comments begins on the day the proposed desired future
17 conditions are mailed to the districts. During the public comment
18 period and after posting notice as required by Section 36.063, each
19 district shall hold a public hearing on any proposed desired future
20 conditions relevant to that district. During the public comment
21 period, the district shall make available in its office a copy of
22 the proposed desired future conditions and any supporting
23 materials, such as the documentation of factors considered under
24 Subsection (d) and groundwater availability model run results.
25 After the public hearing, the district shall compile for
26 consideration at the next joint planning meeting a summary of
27 relevant comments received, any suggested revisions to the proposed

1 desired future conditions, and the basis for the revisions.

2 SECTION 6. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect on the 91st day after the last day of the
7 legislative session.