

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3013 by Larson (Relating to the underground storage of water for later retrieval and beneficial use; authorizing the imposition of fees.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to expedite issuance of temporary or term water rights for aquifer storage and recovery (ASR) projects, and to adopt rules allowing the use of an existing permit for appropriated water that authorizes a consumptive use for a project to demonstrate the feasibility of an ASR. The bill would provide that a temporary or term permit must authorize the use of a sufficient quantity of appropriated water to demonstrate the feasibility of the ASR for the duration of the project. The bill would remove the Water Development Board's from participating in evaluation of the storage of the appropriated water in the target aquifer.

The bill would require that after a feasibility project is complete, a permit holder must file an application with the TCEQ for a permit or permit amendment to store appropriated water in the ASR. The bill would exempt applications for amendments to an existing permit from the application requirements for an ASR if the permit authorizes a consumptive use and the diversion point and rate are not changed.

The bill would require the Water Development Board, during the state and regional planning process, to conduct studies and surveys of aquifers in the state, including target aquifers, to determine the feasibility of ASR projects.

The bill would allow treated effluent (wastewater) to be injected for storage in an aquifer storage and recovery project, in addition to current law which allows treated effluent to be contributed to a reuse water system or discharged under the authority of a Texas Pollutant Discharge Elimination System (TPDES) permit by TCEQ for home-rule municipalities with populations over 1 million. The bill would establish that an issued TPDES permit identifies the target aquifer into which the treated effluent may be injected as a contribution to an aquifer storage and recovery project.

The bill would provide definitions for ASR projects and target aquifers and provide that a well that is constructed and operated as part of an ASR project is subject to permitting requirements under Water Code, Section 11.154. The bill would provide that an ASR affiliated well is not subject to groundwater conservation district (GCD) permitting or rules relating to spacing, setback, or production limits, but must be registered with a GCD. The bill would provides that a GCD must adopt rules to protect water stored in an ASR project to the greatest extent possible, but

it is not required to adopt rules to prohibit the withdrawal of water in an ASR project by a permit holder outside of the ASR project area.

The bill authorizes a \$100 registration fee for each ASR affiliated well, with a cap of \$10,000 per ASR project, and authorizes an injected water fee of \$5 per acre-foot per year, to be submitted at the time of an entity's annual report. Revenue from injected water fees must be deposited in a mitigation account and used for that purpose if a person can demonstrate to the GCD within a reasonable degree of certainty that operation of the ASR project damaged the person's well. The bill would provide that stored water in an ASR project is not subject to production limits, cutbacks, or other action by a GCD to limit production and that desired future conditions and modeled available groundwater requirements do not apply. The bill would provide that the Water Development Board (TWDB) adopt model rules for the administration of ASR projects for GCDs before December 31, 2013, and that GCDs must adopt the WDB rules within 60 days of the TWDB's rule adoption date. Further, the bill would provide that treated wastewater effluent may be stored in an ASR project, and that ASR projects are eligible for state funding.

The bill would require the TCEQ to analyze water availability to determine whether there is sufficient appropriated but unused water to grant a term water use permit since the agency must consider applications filed for an appropriation of water before a term water use permit is filed. The bill's requirements are not expected to result in a significant fiscal impact to the TCEQ; the agency would use existing resources to implement the bill's requirements.

Local Government Impact

GCDs would be able to collect fees to register withdrawal wells. The significance of any increase to revenue would depend on the individual circumstances of each GCD.

Source Agencies: 304 Comptroller of Public Accounts, 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL, PM