

By: Larson, Villalba, et al.

H.B. No. 30

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the development of seawater and brackish groundwater.

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

4 SECTION 1. (a) With this state facing an ongoing drought,
5 continuing population growth, and the need to remain economically
6 competitive, this state must secure and develop plentiful and
7 cost-effective water supplies to meet the ever-increasing demand
8 for water.

9 (b) Brackish groundwater is a potential new source of water
10 for municipal, industrial, and other purposes. This state has an
11 estimated 880 trillion gallons of brackish groundwater, much of
12 which is untapped. For many years this water was considered largely
13 useless for most purposes, but advances in technology and pressures
14 on other supplies have revealed that brackish groundwater is in
15 fact a vital resource. In addition to providing potentially vast
16 new supplies, the development of brackish groundwater can reduce
17 pressures on the use of fresh groundwater.

18 (c) Many in the oil and gas industry in this state have made
19 significant strides to replace the use of fresh groundwater in
20 their operations with brackish groundwater. This is a positive
21 trend, and this Act is not intended to discourage the continued or
22 expanded use of brackish groundwater for oil and gas development or
23 to establish regulatory barriers or permitting requirements for the
24 use of brackish groundwater for that purpose.

1 (d) The purpose of this Act is to provide meaningful
2 incentives for the development of brackish groundwater in areas
3 where that development would have a minimal impact on existing
4 fresh groundwater use, while respecting private property rights in
5 groundwater and continuing to encourage the use of brackish
6 groundwater for purposes other than human consumption.

7 SECTION 2. Section 16.053(e), Water Code, is amended to
8 read as follows:

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

11 (1) is consistent with the guidance principles for the
12 state water plan adopted by the development board under Section
13 16.051(d);

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

17 (2-a) is consistent with the desired future conditions
18 adopted under Section 36.108 for the relevant aquifers located in
19 the regional water planning area as of the date the board most
20 recently adopted a state water plan under Section 16.051 or, at the
21 option of the regional water planning group, established subsequent
22 to the adoption of the most recent plan;

23 (3) identifies:

24 (A) each source of water supply in the regional
25 water planning area, including information supplied by the
26 executive administrator on the amount of modeled available
27 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 seawater or
17 brackish groundwater that serve local or regional brackish
18 groundwater production zones identified and 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 3. Section 16.060, Water Code, is amended by
10 amending Subsections (a) and (b) and adding Subsections (d) and (e)
11 to read 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 any area of the same or other aquifers,
17 subdivisions of aquifers, or geologic strata that have an average
18 total dissolved solids level of 1,000 milligrams per liter or less
19 at the time of designation of the zones; and

20 (B) are not located in:

21 (i) an area of the Edwards Aquifer subject
22 to the jurisdiction of the Edwards Aquifer Authority;

23 (ii) the boundaries of the:

24 (a) Barton Springs-Edwards Aquifer
25 Conservation District;

26 (b) Harris-Galveston Subsidence
27 District; or

1 (c) Fort Bend Subsidence District;

2 (iii) an aquifer, subdivision of an
3 aquifer, or geologic stratum that:

4 (a) has an average total dissolved
5 solids level of more than 1,000 milligrams per liter; and

6 (b) is serving as a significant source
7 of water supply for municipal, domestic, or agricultural purposes
8 at the time of designation of the zones; or

9 (iv) an area of a geologic stratum that is
10 designated or used for wastewater injection through the use of
11 injection wells or disposal wells permitted under Chapter 27.

12 (d) The board shall work together with groundwater
13 conservation districts and stakeholders and shall consider the
14 Brackish Groundwater Manual for Texas Regional Water Planning
15 Groups, and any updates to the manual, and other relevant
16 scientific data or findings when identifying and designating
17 brackish groundwater production zones under Subsection (b)(5).

18 (e) In designating a brackish groundwater production zone
19 under this section, the board shall:

20 (1) determine the amount of brackish groundwater that
21 the zone is capable of producing over a 30-year period and a 50-year
22 period without causing a significant impact to water availability
23 or water quality as described by Subsection (b)(5)(A); and

24 (2) include in the designation description:

25 (A) the amounts of brackish groundwater that the
26 zone is capable of producing during the periods described by
27 Subdivision (1); and

1 (B) recommendations regarding reasonable
2 monitoring to observe the effects of brackish groundwater
3 production within the zone.

4 SECTION 4. (a) The Texas Water Development Board shall
5 include in the biennial progress report required by Section 16.060,
6 Water Code, that is due not later than December 1, 2016, an
7 identification and designation of brackish groundwater production
8 zones as required by that section as amended by this Act for the
9 following:

10 (1) the portion of the Carrizo-Wilcox Aquifer located
11 between the Colorado and Rio Grande Rivers;

12 (2) the Gulf Coast Aquifer and sediments bordering
13 that aquifer;

14 (3) the Blaine Aquifer; and

15 (4) the Rustler Aquifer.

16 (b) Not later than December 1, 2022, the Texas Water
17 Development Board shall identify and designate brackish
18 groundwater production zones for areas of this state not described
19 by Subsection (a) of this section.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.