By: Larson, et al. (Senate Sponsor - Perry) H.B. No. 30

(In the Senate - Received from the House May 11, 2015; May 14, 2015, read first time and referred to Committee on Agriculture, Water, and Rural Affairs; May 24, 2015, reported favorably by the following vote: Yeas 6, Nays 0; May 24, 2015, sent to printer.)

COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|---|---|---|---|---|
| Perry | X | | | |
| Zaffirini | | | X | |
| Creighton | X | | | |
| Hall | X | | | |
| Hinojosa | X | | | |
| Kolkhorst | X | | | |
| Rodríguez | X | | | |

A BILL TO BE ENTITLED
AN ACT

relating to the development of seawater and brackish groundwater.

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

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

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

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

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

SECTION 2. 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 development board under Subsections (d) and (f);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) includes information on:

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

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

SECTION 3. Section 16.060, Water Code, is amended by

amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

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

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

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

(2) identification and evaluation of research, regulatory, technical, and financial impediments to the implementation of seawater or brackish groundwater desalination projects;

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

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

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

(A) are separated by hydrogeologic barriers sufficient to prevent significant impacts to water availability or water quality in any area of the same or other aquifers, subdivisions of aquifers, or geologic strata that have an average total dissolved solids level of 1,000 milligrams per liter or less at the time of designation of the zones; and

(B) are not located in:

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

(ii) the boundaries of the:

(a) Barton Springs-Edwards Aquifer Conservation District;

(b) Harris-Galveston Subsidence District; or

(c) Fort Bend Subsidence District;

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

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

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

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

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

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

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

(2) include in the designation description:

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

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

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

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

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

(3) the Blaine Aquifer; and

(4) the Rustler Aquifer.

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

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

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