

By: Larson

H.B. No. 835

A BILL TO BE ENTITLED

AN ACT

relating to research, development and utilization of brackish groundwater resources.

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

SECTION 1. Section 16.060, Water Code, is amended to read as follows:

Sec. 16.060. DESALINATION STUDIES AND RESEARCH. (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 water ~~[seawater]~~ desalination in the state.

(b) The board shall prepare a biennial progress report on the implementation of water ~~[seawater]~~ 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]~~ water desalination during the preceding biennium;

(2) identification and evaluation of research, regulatory, technical, and financial impediments to the implementation of ~~[seawater]~~ water desalination projects;

(3) evaluation of the role the state should play in furthering the development of large-scale ~~[seawater]~~ water

1 desalination projects in the state; [~~and~~]

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

5 (5) identification of brackish groundwater management
6 zones with moderate to high availability and productivity of
7 brackish water that can be used to reduce reliance on fresh
8 groundwater and that:

9 (A) are separated by hydrogeologic barriers
10 sufficient to prevent adverse impacts to water availability or
11 water quality in other aquifers, subdivisions of aquifers, or
12 geologic strata;

13 (B) are not part of an aquifer management unit
14 for which a desired future condition has been established;

15 (C) are not, at the time of designation as a
16 brackish groundwater management zone, serving as a primary water
17 supply for any purpose other than supplying a desalination project;

18 (D) production from which will not result in
19 subsidence; and

20 (E) are not located:

21 (i) within the boundaries of the
22 Harris-Galveston Subsidence District or the Fort Bend Subsidence
23 District; or

24 (ii) in the Edwards Aquifer and within the
25 boundaries of the Edwards Aquifer Authority; and

26 (6) information regarding state participation in
27 public-private partnerships to advance research efforts, implement

1 pilot projects, and develop new technologies related to:

2 (A) water transport;

3 (B) brine disposal;

4 (C) pretreatment of water for desalination; and

5 (D) innovative concentrate management
6 strategies.

7 (c) The board shall actively pursue federal sources of
8 funding for desalination projects in the state.

9 (d) The board shall coordinate with groundwater
10 conservation districts and stakeholders and shall consider the
11 Brackish Groundwater Manual for Texas Regional Water Planning
12 Groups, and any updates to the manual, and other relevant
13 scientific data or findings when identifying brackish groundwater
14 management zones under Subsection (b)(5).

15 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended
16 by adding Sections 36.1012 and 36.1013 to read as follows:

17 Sec. 36.1012. PETITION FOR DESIGNATION OF A BRACKISH
18 GROUNDWATER MANAGEMENT ZONE. (a) A person with a legally defined
19 interest in groundwater in a district may petition that district to
20 establish a brackish groundwater management zone within the
21 district by following the procedures in this section. A "brackish
22 groundwater management zone" means an aquifer, subdivision of an
23 aquifer, or geologic stratum that:

24 (1) is separated by hydrogeologic barriers sufficient
25 to prevent adverse impacts to water availability or water quality
26 in other aquifers, subdivisions of aquifers, or geologic strata;

27 (2) is not part of an aquifer management unit for which

1 a desired future condition has been established;

2 (3) is not, at the time of designation as a brackish
3 groundwater management zone, serving as a primary water supply for
4 any purpose other than supplying a desalination project;

5 (4) production from which will not result in
6 subsidence; and

7 (5) is not located:

8 (A) within the boundaries of the
9 Harris-Galveston Subsidence District or the Fort Bend Subsidence
10 District; or

11 (B) in the Edwards Aquifer and within the
12 boundaries of the Edwards Aquifer Authority.

13 (b) The district shall review the petition and either deem
14 it to be administratively complete or return it with an explanation
15 of how the petition is deficient.

16 (c) Upon request from the petitioner or on its own motion,
17 the district may forward an administratively complete petition to
18 the Texas Water Development Board for review, along with a copy of
19 the relevant district rules and any other information the district
20 deems relevant to review of the petition.

21 (d) If requested, Texas Water Development Board shall
22 perform a technical review of the petition to determine:

23 (1) potential water quality or water quantity impacts
24 to any aquifer, subdivision of an aquifer, or geologic stratum
25 adjacent to the proposed brackish groundwater management zone; and

26 (2) whether production from the proposed zone will
27 negatively impact the district's ability to achieve approved

1 desired future conditions.

2 (e) Following the review, the Texas Water Development Board
3 shall issue a report to the district detailing the findings under
4 subsection (d).

5 (f) The district shall schedule a public hearing to consider
6 the petition, and shall make the petition and any other relevant
7 material available to any person upon request.

8 Sec. 36.1013. RULES FOR PERMITS IN BRACKISH GROUNDWATER
9 MANAGEMENT ZONES. (a) A district may, by rule, designate one or
10 more brackish groundwater management zones as a separate
11 subdivision of an aquifer, and may issue permits with terms and
12 conditions specific to that zone.

13 (b) After a district has designated a brackish groundwater
14 management zone, the district shall adopt rules for the issuance of
15 permits under Section 36.113 to withdraw groundwater specific to
16 that brackish groundwater management zone. The rules must:

17 (1) allow withdrawals and rates of withdrawal from a
18 brackish groundwater management zone that can be demonstrated as
19 not having an impact on aquifers, a subdivision of an aquifer, or
20 geologic stratum adjacent to the brackish groundwater management
21 zone;

22 (2) require reasonable monitoring of the aquifers,
23 subdivisions of aquifers, or geologic stratum adjacent to the
24 brackish groundwater management zone;

25 (3) allow the district to amend a permit issued under
26 rules adopted under this section following receipt of a report
27 requested under Subsection (d); and

1 (4) require reports from the holder of a permit issued
2 under rules adopted under this section that must include:

3 (A) the amount of groundwater withdrawn;

4 (B) the average monthly water quality of the
5 groundwater withdrawn from both the brackish groundwater
6 management zone and in any aquifer, subdivision of the aquifer, or
7 geologic stratum for which the permit requires monitoring; and

8 (C) aquifer levels in both the brackish
9 groundwater management zone and in any aquifer, subdivision of the
10 aquifer, or geologic stratum for which the permit requires
11 monitoring.

12 (c) The district shall provide the reports required under
13 Subsection (b)(4) to the Texas Water Development Board. On request
14 from the district, the Texas Water Development Board shall
15 investigate and issue a report on:

16 (1) impacts to water quantity in an adjacent aquifer,
17 subdivision of an aquifer, or geologic stratum; or

18 (2) impacts to water quality in an adjacent aquifer,
19 subdivision of an aquifer, or geologic stratum.

20 (d) After receiving a report requested under subsection
21 (c), the district may, after notice and hearing:

22 (1) amend the applicable permit to establish a
23 production limit necessary to mitigate any impacts identified by
24 the report;

25 (2) with the approval of persons with a legally
26 defined interest in groundwater within the district, approve a
27 mitigation plan that alleviates any adverse impacts identified by

1 the report; or

2 (3) both amend the permit to establish a production
3 limit and, with the approval of persons with a legally defined
4 interest in groundwater within the district, approve a mitigation
5 plan.

6 SECTION 3. Section 36.205(a), Water Code, is amended to
7 read as follows:

8 (a) A district may set fees for administrative acts of the
9 district, such as filing applications or petitions. Fees set by a
10 district may not unreasonably exceed the cost to the district of
11 performing the administrative function for which the fee is
12 charged.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2015.