

By: Hunter, Lozano, Lucio III, Guillen

H.B. No. 4097

Substitute the following for H.B. No. 4097:

By: Nevárez

C.S.H.B. No. 4097

A BILL TO BE ENTITLED

AN ACT

relating to seawater desalination projects.

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

SECTION 1. Section 39.203, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) The commission, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, shall study whether existing transmission and distribution planning processes are sufficient to provide adequate infrastructure for seawater desalination projects. If the commission determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, the commission shall include recommendations in the report required by Section 31.003.

SECTION 2. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9055 to read as follows:

Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF SEAWATER DESALINATION PROJECTS. The commission and the ERCOT independent system operator shall study the potential for seawater desalination projects to participate in existing demand response opportunities in the ERCOT market. To the extent feasible, the study shall determine whether the operational characteristics of seawater desalination projects enable projects of that kind to participate in ERCOT-operated ancillary services markets or other

1 competitively supplied demand response opportunities. The study  
2 shall also determine the potential economic benefit to a seawater  
3 desalination project if the project is able to reduce its demand  
4 during peak pricing periods. The commission shall include the  
5 results of the study in the report required by Section 31.003.

6 SECTION 3. Subchapter D, Chapter 11, Water Code, is amended  
7 by adding Section 11.1405 to read as follows:

8 Sec. 11.1405. PERMIT FOR DESALINATION OF SEAWATER FOR USE  
9 FOR INDUSTRIAL PURPOSES. (a) The commission may issue a permit to  
10 authorize a diversion of state water from the Gulf of Mexico or a  
11 bay or arm of the Gulf of Mexico for desalination and use for  
12 industrial purposes.

13 (b) A permit application under this section must be  
14 submitted as required by commission rule.

15 (c) The commission is not required to make a finding of  
16 water availability for an application under this section.

17 (d) The commission shall evaluate whether any proposed  
18 diversion under this section is consistent with any applicable  
19 environmental flow standards established under Section 11.1471.

20 (e) The commission may include any provision in a permit  
21 issued under this section that the commission considers necessary  
22 to comply with the environment flow standards established under  
23 Section 11.1471.

24 (f) A permit issued under this section does not require  
25 public notice and is not subject to a contested case hearing.

26 SECTION 4. Subchapter B, Chapter 26, Water Code, is amended  
27 by adding Section 26.0272 to read as follows:

1       Sec. 26.0272. PERMITS AUTHORIZING DISCHARGES FROM SEAWATER  
2 DESALINATION FACILITIES. (a) This section applies only to a  
3 facility that generates water treatment residuals from the  
4 desalination of seawater for use as part of an industrial process.

5       (b) The commission may issue a permit for the discharge of  
6 water treatment residuals from the desalination of seawater into  
7 the portion of the Gulf of Mexico inside the territorial limits of  
8 the state.

9       (c) Before issuing a permit under this section, the  
10 commission must evaluate the discharge of water treatment residuals  
11 from the desalination of seawater into the Gulf of Mexico for  
12 compliance with the state water quality standards adopted by the  
13 commission, the requirements of the Texas Pollutant Discharge  
14 Elimination System program, and applicable federal law.

15       (d) The commission may issue individual permits or a general  
16 permit under this section. If the commission elects to issue  
17 individual permits under this section, the commission must  
18 establish procedures for the review of an application that, at a  
19 minimum, comply with the requirements of Subchapter M, Chapter 5.  
20 If the commission elects to issue a general permit under this  
21 section, the commission must comply with the requirements of  
22 Section 26.040.

23       SECTION 5. Section 27.021, Water Code, is amended by adding  
24 Subsection (a-1) to read as follows:

25       (a-1) A permit issued under this section may authorize the  
26 disposal of water treatment residuals produced by the desalination  
27 of seawater.

1           SECTION 6. Section 27.025, Water Code, is amended by adding  
2 Subsection (a-1) to read as follows:

3           (a-1) A general permit issued under this section may  
4 authorize an injection well for the disposal of concentrate  
5 produced by the desalination of seawater. The general permit must  
6 include any requirements necessary to maintain delegation of the  
7 federal underground injection control program administered by the  
8 commission.

9           SECTION 7. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2015.