

By: Hunter

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. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.0331 to read as follows:

Sec. 341.0331. DESALINATION FOR NONPOTABLE USE. (a) This section applies only to the desalination of seawater under a permit issued under Section 26.0272, Water Code.

(b) The commission shall adopt rules that allow desalinated seawater to be used for nonpotable uses. The rules must specify that:

(1) the quality of water produced by seawater desalination does not have to meet the criteria prescribed by the sanitary standards for drinking water adopted by the commission;

(2) a public drinking water supply may not be connected to any alternative source unless the connection is designed to ensure against a backflow or siphonage of water into the drinking water supply; and

(3) equipment used to desalinate seawater for nonpotable uses may not subsequently be used to produce water for human consumption.

SECTION 2. Section 39.203, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) The commission, in cooperation with transmission and

1 distribution utilities and the ERCOT independent system operator,
2 shall study whether existing transmission and distribution
3 planning processes are sufficient to provide adequate
4 infrastructure for seawater desalination projects. If the
5 commission determines that statutory changes are needed to ensure
6 that adequate infrastructure is developed for projects of that
7 kind, the commission shall include recommendations in the report
8 required by Section 31.003.

9 SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is
10 amended by adding Section 39.9055 to read as follows:

11 Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF
12 SEAWATER DESALINATION PROJECTS. The commission and the ERCOT
13 independent system operator shall study the potential for seawater
14 desalination projects to participate in existing demand response
15 opportunities in the ERCOT market. To the extent feasible, the
16 study shall determine whether the operational characteristics of
17 seawater desalination projects enable projects of that kind to
18 participate in ERCOT-operated ancillary services markets or other
19 competitively supplied demand response opportunities. The study
20 shall also determine the potential economic benefit to a seawater
21 desalination project if the project is able to reduce its demand
22 during peak pricing periods. The commission shall include the
23 results of the study in the report required by Section 31.003.

24 SECTION 4. Subchapter D, Chapter 11, Water Code, is amended
25 by adding Section 11.1405 to read as follows:

26 Sec. 11.1405. PERMIT FOR DESALINATION OF SEAWATER FOR USE
27 FOR INDUSTRIAL PURPOSES. (a) The commission may issue a permit to

1 authorize a diversion of state water from the Gulf of Mexico or a
2 bay or arm of the Gulf of Mexico for desalination and use for
3 industrial purposes.

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

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

8 (d) The commission shall evaluate whether any proposed
9 diversion under this section is consistent with any applicable
10 environmental flow standards established under Section [11.1471](#).

11 (e) The commission may include any provision in a permit
12 issued under this section that the commission considers necessary
13 to comply with the environment flow standards established under
14 Section [11.1471](#).

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

17 SECTION 5. Subchapter B, Chapter 26, Water Code, is amended
18 by adding Section 26.0272 to read as follows:

19 Sec. 26.0272. PERMITS AUTHORIZING DISCHARGES FROM SEAWATER
20 DESALINATION FACILITIES. (a) This section applies only to a
21 facility that generates waste from the desalination of seawater for
22 use as part of an industrial process.

23 (b) The commission may issue a permit for the discharge of
24 waste or pollutants from the desalination of seawater into the
25 portion of the Gulf of Mexico inside the territorial limits of the
26 state.

27 (c) Before issuing a permit under this section, the

1 commission must evaluate the discharge of waste or pollutants from
2 the desalination of seawater into the Gulf of Mexico for compliance
3 with the state water quality standards adopted by the commission,
4 the requirements of the Texas Pollutant Discharge Elimination
5 System program, and applicable federal law.

6 (d) The commission may issue individual permits or a general
7 permit under this section. If the commission elects to issue
8 individual permits under this section, the commission must
9 establish procedures for the review of an application that, at a
10 minimum, comply with the requirements of Subchapter M, Chapter 5.
11 If the commission elects to issue a general permit under this
12 section, the commission must comply with the requirements of
13 Section 26.040.

14 SECTION 6. Section 27.021, Water Code, is amended by adding
15 Subsection (a-1) to read as follows:

16 (a-1) A permit issued under this section may authorize the
17 disposal of brine produced by the desalination of seawater.

18 SECTION 7. Section 27.025, Water Code, is amended by adding
19 Subsection (a-1) to read as follows:

20 (a-1) A general permit issued under this section may
21 authorize an injection well for the disposal of brine produced by
22 the desalination of seawater.

23 SECTION 8. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2015.