

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 22, 2015

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1738 by Hinojosa (relating to the diversion and use of marine seawater, including the development of marine seawater desalination projects, integrated marine seawater desalination and power projects, and facilities for the storage, conveyance, and delivery of desalinated marine seawater.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend sections of the Texas Water Code relating to the diversion and use of marine seawater. The bill would create a permit exemption for usage of marine seawater by a water supply entity, provided notice is given to the Texas Commission on Environmental Quality (TCEQ) on the proposed diversion. The bill would allow marine seawater desalination projects and integrated marine seawater desalination and power projects to be eligible for financial assistance from Texas Water Development Board (TWDB). TCEQ would have general jurisdiction over the permitting of these projects, and shall consult with the General Land Office (GLO), School Land Board, TWDB, Texas Parks and Wildlife Department (TPWD), Public Utility Commission of Texas (PUC), or Electric Reliability Council of Texas (ERCOT) over any aspect of a project that also falls within the general jurisdiction of that agency or entity. Should the facility be located on state land, a political subdivision must first obtain approval from GLO. The political subdivision would also be required to notify TCEQ of proposed diversions of marine seawater.

The bill includes provisions related to the desalination of water for drinking water purposes, providing that TCEQ shall adopt rules to allow water treated by a desalination facility to be used as public drinking water. A person may not begin construction of a desalination facility unless TCEQ approves the plans and specifications for the facility. Persons wishing to begin construction of a desalination facility that treats seawater to remove contaminants must first submit to TCEQ a report containing information referenced in the bill. The bill provides deadlines for TCEQ to review and respond to reports, plans and specifications for a facility.

The bill would repeal the requirement for TWDB to undertake or participate in desalination studies and research. Although there could be some costs to TCEQ, this estimate assumes those costs would not be significant and could be absorbed using existing resources. According to TCEQ, the agency has entered into a Memorandum of Agreement (MOA) with the U.S. Environmental Protection Agency (EPA) to implement the Texas Pollutant Discharge Elimination System (TPDES) program. Modifying the ability for the public to comment, request a public meeting and to request a contested case hearing on marine seawater desalination projects will likely require the MOA to be modified and approved by EPA. GLO, PUC and TPWD anticipate that the bill would have no significant fiscal impact and that the provisions could be accomplished using existing resources. The bill would have immediate effect if it receives a two-thirds vote of

the membership of each house of the Legislature, otherwise it would take effect September 1, 2015.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 473 Public Utility Commission of Texas, 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: UP, SZ, JJ, PM, TB, MWI, TL, MW, KVe