

1-1 By: Larson, Lucio III (Senate Sponsor - Perry) H.B. No. 2377
 1-2 (In the Senate - Received from the House May 5, 2017;
 1-3 May 12, 2017, read first time and referred to Committee on
 1-4 Agriculture, Water & Rural Affairs; May 18, 2017, reported
 1-5 favorably by the following vote: Yeas 5, Nays 0; May 18, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14			X	
1-15	X			

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the development of brackish groundwater.
 1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-20 SECTION 1. Subchapter D, Chapter 36, Water Code, is amended
 1-21 by adding Section 36.1015 to read as follows:
 1-22 Sec. 36.1015. RULES FOR PERMITS IN BRACKISH GROUNDWATER
 1-23 PRODUCTION ZONES. (a) In this section:
 1-24 (1) "Designated brackish groundwater production zone"
 1-25 means an aquifer, subdivision of an aquifer, or geologic stratum
 1-26 designated under Section 16.060(b)(5).
 1-27 (2) "Development board" means the Texas Water
 1-28 Development Board.
 1-29 (3) "Gulf Coast Aquifer" means the system of
 1-30 hydrogeologic units that run along the Gulf Coast from the Sabine
 1-31 River to the Rio Grande, including:
 1-32 (A) the Catahoula confining system, including
 1-33 the Frio Formation, the Anahuac Formation, and the Catahoula Tuff
 1-34 or Sandstone;
 1-35 (B) the Jasper Aquifer, including the Oakville
 1-36 Sandstone and Fleming Formation;
 1-37 (C) the Burkeville confining system separating
 1-38 the Jasper Aquifer from the Evangeline Aquifer;
 1-39 (D) the Evangeline Aquifer, including the Goliad
 1-40 Sand; and
 1-41 (E) the Chicot Aquifer, including the Willis
 1-42 Sand, the Bentley and Montgomery Formations, the Beaumont Clay, and
 1-43 alluvial deposits at the surface.
 1-44 (b) A district located over any part of a designated
 1-45 brackish groundwater production zone may adopt rules to govern the
 1-46 issuance of permits for the completion and operation of a well for
 1-47 the withdrawal of brackish groundwater from a designated brackish
 1-48 groundwater production zone and shall adopt rules described by this
 1-49 subsection if the district receives a petition from a person with a
 1-50 legally defined interest in groundwater in the district. The
 1-51 district must adopt the rules not later than the 180th day after the
 1-52 date the district receives the petition. Rules adopted under this
 1-53 subsection apply only to a permit for a project described by
 1-54 Subsection (c).
 1-55 (c) A person may obtain a permit under rules adopted under
 1-56 this section for the following projects:
 1-57 (1) a municipal project designed to treat brackish
 1-58 groundwater to drinking water standards for the purpose of
 1-59 providing a public source of drinking water; and
 1-60 (2) an electric generation project to treat brackish
 1-61 groundwater to water quality standards sufficient for the project

2-1 needs.

2-2 (d) The rules adopted must:

2-3 (1) provide for processing an application for a

2-4 brackish groundwater production zone operating permit in the same

2-5 manner as an application for an operating permit for a fresh

2-6 groundwater well, except as provided by this section;

2-7 (2) allow withdrawals and rates of withdrawal of

2-8 brackish groundwater from a designated brackish groundwater

2-9 production zone not to exceed and consistent with the withdrawal

2-10 amounts identified in Section 16.060(e);

2-11 (3) provide for a minimum term of 30 years for a permit

2-12 issued for a well that produces brackish groundwater from a

2-13 designated brackish groundwater production zone;

2-14 (4) require implementation of a monitoring system

2-15 recommended by the development board to monitor water levels and

2-16 water quality in the same or an adjacent aquifer, subdivision of an

2-17 aquifer, or geologic stratum in which the designated brackish

2-18 groundwater production zone is located;

2-19 (5) for a project located in a designated brackish

2-20 groundwater production zone in the Gulf Coast Aquifer, require

2-21 reasonable monitoring by the district of land elevations to

2-22 determine if production from the project is causing or is likely to

2-23 cause subsidence during the permit term;

2-24 (6) require from the holder of a permit issued under

2-25 rules adopted under this section annual reports that must include:

2-26 (A) the amount of brackish groundwater

2-27 withdrawn;

2-28 (B) the average monthly water quality of the

2-29 brackish groundwater withdrawn and in the monitoring wells; and

2-30 (C) aquifer levels in both the designated

2-31 brackish groundwater production zone and in any aquifer,

2-32 subdivision of an aquifer, or geologic stratum for which the permit

2-33 requires monitoring; and

2-34 (7) be consistent with and not impair property rights

2-35 described by Sections 36.002(a) and (b).

2-36 (e) An application for a brackish groundwater production

2-37 zone operating permit must include:

2-38 (1) the proposed well field design compared to the

2-39 designated brackish groundwater production zone;

2-40 (2) the requested maximum groundwater withdrawal rate

2-41 for the proposed project;

2-42 (3) the number and location of monitoring wells needed

2-43 to determine the effects of the proposed project on water levels and

2-44 water quality in the same or an adjacent aquifer, subdivision of an

2-45 aquifer, or geologic stratum in which the designated brackish

2-46 groundwater production zone is located; and

2-47 (4) a report that includes:

2-48 (A) a simulation of the projected effects of the

2-49 proposed production on water levels and water quality in the same or

2-50 an adjacent aquifer, subdivision of an aquifer, or geologic stratum

2-51 in which the designated brackish groundwater production zone is

2-52 located;

2-53 (B) a description of the model used for the

2-54 simulation described by Paragraph (A); and

2-55 (C) sufficient information for a technical

2-56 reviewer to understand the parameters and assumptions used in the

2-57 model described by Paragraph (B).

2-58 (f) The district shall submit the application to the

2-59 development board and the development board shall conduct a

2-60 technical review of the application. The development board shall

2-61 submit a report of the review of the application that includes:

2-62 (1) findings regarding the compatibility of the

2-63 proposed well field design with the designated brackish groundwater

2-64 production zone; and

2-65 (2) recommendations for the monitoring system

2-66 described by Subsection (d)(4).

2-67 (g) The district may not schedule a hearing on the

2-68 application until the district receives the report from the

2-69 development board described by Subsection (f).

3-1 (h) The district shall provide the reports required under
3-2 Subsection (d)(6) to the development board. Not later than the
3-3 120th day after the date the development board receives a request
3-4 from the district, the development board shall investigate and
3-5 issue a report on whether brackish groundwater production under the
3-6 project that is the subject of the report from the designated
3-7 brackish groundwater production zone is projected to cause:

3-8 (1) significant aquifer level declines in the same or
3-9 an adjacent aquifer, subdivision of an aquifer, or geologic stratum
3-10 that were not anticipated by the development board in the
3-11 designation of the zone;

3-12 (2) negative effects on quality of water in an
3-13 aquifer, subdivision of an aquifer, or geologic stratum; or

3-14 (3) for a project located in a designated brackish
3-15 groundwater production zone in the Gulf Coast Aquifer, subsidence
3-16 during the permit term.

3-17 (i) After receiving from the development board a report
3-18 issued under Subsection (h) and after notice and hearing subject to
3-19 Subchapter M, the district may:

3-20 (1) amend the applicable permit to establish a
3-21 production limit necessary to mitigate any negative effects
3-22 identified by the report;

3-23 (2) approve a mitigation plan that alleviates any
3-24 negative effects identified by the report; or

3-25 (3) both amend the permit to establish a production
3-26 limit and approve a mitigation plan.

3-27 SECTION 2. Section 36.1132, Water Code, is amended by
3-28 adding Subsection (d) to read as follows:

3-29 (d) Production under a permit issued under Section 36.1015
3-30 to produce brackish groundwater from a designated brackish
3-31 groundwater production zone is in addition to the amount of
3-32 groundwater that may be produced based on Subsections (b)(1) and
3-33 (2). To the extent possible, a district shall issue permits up to
3-34 the point that the total volume of exempt and permitted groundwater
3-35 production in a designated brackish groundwater production zone
3-36 equals the amount of brackish groundwater that may be produced
3-37 annually to achieve the groundwater availability described by the
3-38 Texas Water Development Board in its designation of the brackish
3-39 groundwater production zone under Section 16.060(e).

3-40 SECTION 3. This Act takes effect September 1, 2017.

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