

1-1 By: Larson (Senate Sponsor - Perry) H.B. No. 722  
1-2 (In the Senate - Received from the House April 23, 2019;  
1-3 May 10, 2019, read first time and referred to Committee on Water &  
1-4 Rural Affairs; May 16, 2019, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 16, 2019, 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 COMMITTEE SUBSTITUTE FOR H.B. No. 722 By: Taylor

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

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

2-1 groundwater to drinking water standards for the purpose of  
2-2 providing a public source of drinking water; and  
2-3 (2) an electric generation project to treat brackish  
2-4 groundwater to water quality standards sufficient for the project  
2-5 needs.  
2-6 (e) The rules adopted under this section must:  
2-7 (1) provide for processing an application for a  
2-8 brackish groundwater production zone operating permit in the same  
2-9 manner as an application for an operating permit for a fresh  
2-10 groundwater well, except as provided by this section;  
2-11 (2) allow withdrawals and rates of withdrawal of  
2-12 brackish groundwater from a designated brackish groundwater  
2-13 production zone not to exceed and consistent with the withdrawal  
2-14 amounts identified in Section 16.060(e);  
2-15 (3) provide for a minimum term of 30 years for a permit  
2-16 issued for a well that produces brackish groundwater from a  
2-17 designated brackish groundwater production zone;  
2-18 (4) require implementation of a monitoring system  
2-19 recommended by the development board to monitor water levels and  
2-20 water quality in the same or an adjacent aquifer, subdivision of an  
2-21 aquifer, or geologic stratum in which the designated brackish  
2-22 groundwater production zone is located;  
2-23 (5) for a project located in a designated brackish  
2-24 groundwater production zone in the Gulf Coast Aquifer, require  
2-25 reasonable monitoring by the district of land elevations to  
2-26 determine if production from the project is causing or is likely to  
2-27 cause subsidence during the permit term;  
2-28 (6) require from the holder of a permit issued under  
2-29 rules adopted under this section annual reports that must include:  
2-30 (A) the amount of brackish groundwater  
2-31 withdrawn;  
2-32 (B) the average monthly water quality of the  
2-33 brackish groundwater withdrawn and in the monitoring wells; and  
2-34 (C) aquifer levels in both the designated  
2-35 brackish groundwater production zone and in any aquifer,  
2-36 subdivision of an aquifer, or geologic stratum for which the permit  
2-37 requires monitoring;  
2-38 (7) provide greater access to brackish groundwater by  
2-39 simplifying procedure, avoiding delay in permitting, saving  
2-40 expense for the permit seeker, and providing flexibility to permit  
2-41 applicants and the district;  
2-42 (8) be consistent with and not impair property rights  
2-43 described by Sections 36.002(a) and (b); and  
2-44 (9) specify all additional information that must be  
2-45 included in an application.  
2-46 (f) Additional information required under Subsection (e)(9)  
2-47 must be reasonably related to an issue the district is authorized to  
2-48 consider.  
2-49 (g) An application for a brackish groundwater production  
2-50 zone operating permit must include:  
2-51 (1) the proposed well field design compared to the  
2-52 designated brackish groundwater production zone;  
2-53 (2) the requested maximum groundwater withdrawal rate  
2-54 for the proposed project;  
2-55 (3) the number and location of monitoring wells needed  
2-56 to determine the effects of the proposed project on water levels and  
2-57 water quality in the same or an adjacent aquifer, subdivision of an  
2-58 aquifer, or geologic stratum in which the designated brackish  
2-59 groundwater production zone is located; and  
2-60 (4) a report that includes:  
2-61 (A) a simulation of the projected effects of the  
2-62 proposed production on water levels and water quality in the same or  
2-63 an adjacent aquifer, subdivision of an aquifer, or geologic stratum  
2-64 in which the designated brackish groundwater production zone is  
2-65 located;  
2-66 (B) a description of the model used for the  
2-67 simulation described by Paragraph (A); and  
2-68 (C) sufficient information for a technical  
2-69 reviewer to understand the parameters and assumptions used in the

3-1 model described by Paragraph (B).

3-2 (h) The district shall submit the application to the  
 3-3 development board and the development board shall conduct a  
 3-4 technical review of the application. The development board shall  
 3-5 submit a report of the review of the application that includes:

3-6 (1) findings regarding the compatibility of the  
 3-7 proposed well field design with the designated brackish groundwater  
 3-8 production zone; and

3-9 (2) recommendations for the monitoring system  
 3-10 described by Subsection (e)(4).

3-11 (i) The district may not schedule a hearing on the  
 3-12 application until the district receives the report from the  
 3-13 development board described by Subsection (h).

3-14 (j) The district shall provide the reports required under  
 3-15 Subsection (e)(6) to the development board. Not later than the  
 3-16 120th day after the date the development board receives a request  
 3-17 from the district, the development board shall investigate and  
 3-18 issue a report on whether brackish groundwater production under the  
 3-19 project that is the subject of the report from the designated  
 3-20 brackish groundwater production zone is projected to cause:

3-21 (1) significant aquifer level declines in the same or  
 3-22 an adjacent aquifer, subdivision of an aquifer, or geologic stratum  
 3-23 that were not anticipated by the development board in the  
 3-24 designation of the zone;

3-25 (2) negative effects on quality of water in an  
 3-26 aquifer, subdivision of an aquifer, or geologic stratum; or

3-27 (3) for a project located in a designated brackish  
 3-28 groundwater production zone in the Gulf Coast Aquifer, subsidence  
 3-29 during the permit term.

3-30 (k) After receiving from the development board a report  
 3-31 issued under Subsection (j) and after notice and hearing subject to  
 3-32 Subchapter M, the district may:

3-33 (1) amend the applicable permit to establish a  
 3-34 production limit necessary to mitigate any negative effects  
 3-35 identified by the report;

3-36 (2) approve a mitigation plan that alleviates any  
 3-37 negative effects identified by the report; or

3-38 (3) both amend the permit to establish a production  
 3-39 limit and approve a mitigation plan.

3-40 (l) Rules adopted under this section must provide that the  
 3-41 production authorized from a designated brackish groundwater  
 3-42 production zone is in addition to the amount of managed available  
 3-43 groundwater provided under Section 36.108. To the extent possible,  
 3-44 a district shall issue permits up to the point that the total volume  
 3-45 of exempt and permitted groundwater production in a designated  
 3-46 brackish groundwater production zone equals the amount of brackish  
 3-47 groundwater that may be produced annually to achieve the  
 3-48 groundwater availability described by the development board in its  
 3-49 designation of the brackish groundwater production zone under  
 3-50 Section 16.060(e).

3-51 (m) A district may not adopt rules limiting access to the  
 3-52 production of groundwater within a designated brackish groundwater  
 3-53 production zone to only those projects described by Subsection (d).

3-54 (n) The district may grant or deny an application to extend  
 3-55 a term under this section only using rules that were in effect at  
 3-56 the time the application was submitted.

3-57 (o) An application for a permit under this section is  
 3-58 governed solely by district rules consistent with this section.

3-59 SECTION 2. The Texas Water Development Board is required to  
 3-60 implement a provision of this Act only if the legislature  
 3-61 appropriates money specifically for that purpose. If the  
 3-62 legislature does not appropriate money specifically for that  
 3-63 purpose, the board may, but is not required to, implement a  
 3-64 provision of this Act using other appropriations available for that  
 3-65 purpose.

3-66 SECTION 3. This Act takes effect September 1, 2019.

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