

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 19, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB845** by Lozano (Relating to the eligibility of property used for a water desalination project for ad valorem tax benefits under the Texas Economic Development Act.), As  
**Introduced**

**Passage of the bill would make water desalination projects eligible for school property tax value limitations. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.**

The bill would amend Tax Code, Section 313.024(b) to make water desalination projects eligible for school property tax value limitations under the chapter. The bill would amend Tax Code, Section 313.024 (e) to define water desalination as the removal of organic and inorganic elements and compounds from saline or biologically impaired waters.

Desalination is commonly defined as the process of removing minerals from saline water. The broader definition of desalination proposed in the bill would include all types of desalination, but additionally would encompass projects devoted to water reuse or reclamation-a class of projects not commonly considered "desalination" projects.

The bill would make desalination facilities eligible for local school district property Maintenance and Operations (M&O) tax limitation agreements under Texas Tax Code Chapter 313. Under current law, desalination facilities are eligible under Chapter 313 only if they are part of a specific manufacturing project in the Chapter 313 program.

Most desalination projects in Texas are currently built by entities not subject to the property tax, such as larger municipal water providers, and smaller city or community water systems. Applicants can only participate in the Tax Code Chapter 313 program if they are subject to the franchise tax under Chapter 171.

In the Corpus Christi area, at least two possibly private seawater desalination projects are reportedly under development. Industry reports indicate that one of the facilities may also include a "replacement wastewater treatment plant and infrastructure to potentially recycle municipal wastewater effluent and industrial cooling water."

As an illustrative example, if the initial taxable value of two desalination facilities in the Corpus Christi area were \$1.2 billion, the 10-year gross school M&O property tax benefit that such facilities might receive under the bill's proposed changes would be \$95 million. Local school

district revenues forgone under the program are substantially replaced by the state through the school funding formulas.

Private desalination facilities could also possibly be built in the Permian Basin to process water used with fracking-an integral part of the completion of many oil wells drilled in this area. But no large private desalination facilities have been announced in that region.

Texas is experiencing significant growth in the number and size of petrochemical and manufacturing facilities along the coast. The number of desalination facilities that will be needed to make regional water supplies more reliable cannot be estimated. The number of large desalination projects-or water reclamation/resuse facilities-that might be built in other areas of the state can also not be estimated.

The fiscal impact of this bill cannot be estimated, but could be significant.

Note: Water produced by desalination or effluent reuse projects is used in relative close proximity to the point of production. It is unclear that the proposed eligibility category would fulfill the stated purposes of Chapter 313 of the Texas Tax Code-to encourage manufacturing and capital-intensive businesses to locate to Texas (Tax Code 313.003). It is not known whether Chapter 313 is a determining factor in the location of such facilities.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2019.

### **Local Government Impact**

Passage of the bill would make water desalination projects eligible for school property tax value limitations. As a result, taxable property values and the related ad valorem tax revenue for certain school districts could be reduced. However, local school district revenues forgone under the program are substantially replaced by the state through the school funding formulas.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD, SJS