

BILL ANALYSIS

C.S.H.B. 2031
By: Lucio III
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Marine seawater desalination is the process of treating marine seawater to achieve a quality that can be used for drinking water and other uses. Interested parties note that with a long coastline along the Gulf of Mexico, Texas has access to a nearly limitless supply of seawater for desalination. Currently, marine seawater desalination is among the water supply strategies planned to be used to meet the state's water demands over the next 50 years. However, the parties observe that the relatively high cost of desalination when compared to other sources of water supply poses a challenge for the implementation of a large-scale seawater desalination facility in Texas. C.S.H.B. 2031 seeks to encourage and facilitate the development of marine seawater desalination.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTIONS 5, 7, and 8 of this bill.

ANALYSIS

C.S.H.B. 2031 amends the Water Code to require a water supply entity, which includes a retail public utility, a wholesale water supplier, or an irrigation district, to obtain a permit to divert and use state water that consists of marine seawater if the point of diversion is located less than six miles from any point located on the coast of Texas or if the seawater contains a total dissolved solids concentration based on a yearly average of samples taken at the water source of less than 20,000 milligrams per liter. The bill authorizes a water supply entity to divert and use state water that consists of marine seawater without obtaining a permit in cases where a permit is not required. The bill authorizes a water supply entity to use applicable marine seawater for any beneficial purpose if the seawater is treated in accordance with rules adopted by the Texas Commission on Environmental Quality (TCEQ) before it is used. The bill authorizes such rules to impose different treatment requirements based on the purpose for which the seawater is to be used but requires the rules to require that the seawater be treated in accordance with specified statutory provisions based on whether the water is to be used as public drinking water, whether the bed and banks of a flowing natural stream in Texas or a lake, reservoir, or other impoundment in Texas are to be used to convey the water, or whether the water is to be discharged into a flowing natural stream in Texas or a lake, reservoir, or other impoundment in Texas. The bill requires TCEQ to adopt rules providing an expedited procedure for acting on an application for a permit and requires the rules to provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding TCEQ actions relating to a permit. The bill prohibits the point of diversion of marine seawater from being in a bay or estuary. The bill requires TCEQ to adopt rules prescribing the number of points

from which, and the rate at which, a facility may divert marine seawater.

C.S.H.B. 2031 requires a water supply entity to obtain a permit to discharge marine seawater into a flowing natural stream in Texas or a lake, reservoir, or other impoundment in Texas or to discharge waste resulting from the desalination of marine seawater into the Gulf of Mexico. The bill requires a water supply entity to treat marine seawater so as to meet standards that are at least as stringent as the water quality standards applicable to the receiving stream or impoundment adopted by TCEQ before discharging the seawater under a permit and to comply with all applicable state and federal requirements when discharging waste resulting from the desalination of marine seawater into the Gulf of Mexico under a permit. The bill requires TCEQ to adopt rules providing an expedited procedure for acting on an application for a permit and sets out criteria for such rules relating to notice, submission of written comment, request for a public meeting, and a contested case hearing. The bill prohibits a water supply entity from discharging waste resulting from the desalination of marine seawater into a bay or estuary.

C.S.H.B. 2031 requires the Parks and Wildlife Department (TPWD) and the General Land Office (GLO) jointly to conduct a study to identify zones in the Gulf of Mexico that are appropriate for the diversion of marine seawater and a study to identify zones in the Gulf of Mexico that are appropriate for the discharge of waste resulting from the desalination of marine seawater, taking into account the need to protect marine organisms, and requires TPWD and the GLO jointly to recommend zones for designation by TCEQ. The bill requires TCEQ, not later than September 1, 2020, to adopt rules designating appropriate diversion zones and discharge zones. The bill authorizes a diversion zone to be contiguous to, the same as, or overlap a discharge zone. The bill provides for the location in a diversion zone of the point or points at which a facility may divert marine seawater and for the location in a discharge zone of the point at which a facility may discharge waste resulting from the desalination of marine seawater. The bill requires a water supply entity, until TCEQ adopts applicable rules, to consult TPWD and the GLO regarding the point or points at which the facility the entity proposes to construct may divert marine seawater or discharge waste resulting from the desalination of marine seawater before submitting an application for the applicable permit or before beginning construction of the facility, as applicable.

C.S.H.B. 2031 authorizes a water supply entity, with prior authorization granted under rules prescribed by TCEQ, to use the bed and banks of any flowing natural stream in Texas or a lake, reservoir, or other impoundment in Texas to convey marine seawater that has been treated so as to meet standards that are at least as stringent as the water quality standards applicable to the receiving stream or impoundment adopted by TCEQ. The bill requires TCEQ to provide for notice and an opportunity for the submission of written comment but prohibits TCEQ from providing an opportunity for a public hearing regarding TCEQ actions relating to that authorization to use the bed and banks of a flowing natural stream to convey treated marine seawater. The bill requires TCEQ to provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding TCEQ actions relating to that authorization to use a lake, reservoir, or other impoundment to convey treated marine seawater. The bill prohibits a water supply entity from discharging treated marine seawater into a flowing natural stream in Texas or a lake, reservoir, or other impoundment in Texas for the purpose of conveyance of the water under such a granted authorization unless the entity holds a permit as provided by the bill authorizing the discharge. The bill establishes that treated marine seawater conveyed under such a granted authorization may be used only by the water supply entity to which the authorization is granted. The bill establishes that these provisions regarding the conveyance of treated marine seawater do not prohibit a water supply entity from conveying treated marine seawater in any other manner authorized by law.

C.S.H.B. 2031 adds consideration of the opportunities for and the benefits of developing large-scale desalination facilities for marine seawater that serve local or regional entities to the required contents of a regional water planning group's regional water plan that is submitted to the Texas Water Development Board (TWDB).

C.S.H.B. 2031 amends the Health and Safety Code to require TCEQ to adopt rules to allow water treated by a desalination facility that is intended to treat marine seawater for the purpose of producing water for the public drinking water supply to be used as public drinking water and rules to ensure that water treated by a desalination facility meets applicable public drinking water requirements and rules. The bill requires TCEQ approval of the construction of a desalination facility that treats marine seawater for the purpose of removing primary or secondary drinking water contaminants before a person may begin construction of the facility. These provisions do not apply to a desalination facility used to produce nonpotable water.

C.S.H.B. 2031 repeals Section 16.060, Water Code, relating to TWDB desalination studies and research.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2031 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. (a) With this state facing an ongoing drought, continuing population growth, and the need to remain economically competitive, every effort must be made to secure and develop plentiful and cost-effective water supplies to meet the ever-increasing demand for water. The purpose of this Act is not to hinder the conservation or development of other surface water efforts; however, its purpose is to more fully explore and expedite the development of all water resources in order to balance the state's supply and demand for water, one of the most precious resources of this state.

(b) Currently, the projected long-term water needs of this state far exceed the firm supplies that are available and that can reasonably be made available from freshwater sources within the state. The legislature recognizes the importance of providing for this state's current and future water needs at all times, including during severe droughts.

(b) In Texas, marine seawater is a potential new source of public drinking water. This state has access to over 600 quadrillion gallons of marine seawater from the Gulf of Mexico. The purpose of this Act is to streamline the process and reduce the cost

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. (a) With this state facing an ongoing drought, continuing population growth, and the need to remain economically competitive, every effort must be made to secure and develop plentiful and cost-effective water supplies to meet the ever-increasing demand for water. The purpose of this Act is not to hinder efforts to conserve or develop other surface water supplies but rather to more fully explore and expedite the development of all this state's water resources in order to balance this state's supply and demand for water, which is one of the most precious resources of this state.

(b) Currently, the projected long-term water needs of this state far exceed the firm supplies that are available and that can reasonably be made available from freshwater sources within this state. The legislature recognizes the importance of providing for this state's current and future water needs at all times, including during severe droughts.

(c) In this state, marine seawater is a potential new source of water for drinking and other beneficial uses. This state has access to vast quantities of marine seawater from the Gulf of Mexico. The purpose of this Act is to streamline the regulatory

and regulation of marine seawater desalination.

(c) The legislature finds that marine seawater desalination projects should be cost-effectively, timely, and concurrently developed, alongside other water planning solutions, to help this state meet its current and future firm water needs.

(d) The legislature finds that it is necessary and appropriate to grant certain rights or authority and provide for expedited and streamlined permitting for large-scale marine seawater desalination projects and integrated marine seawater desalination and power projects, to avoid unnecessary costs, delays and uncertainty and thereby help justify the investment of significant resources of the state in the development of such projects.

No equivalent provision.

No equivalent provision. (*But see SECTION 3 below.*)

process for and reduce the time required for and cost of marine seawater desalination.

(d) The legislature finds that marine seawater desalination facilities should be cost-effectively and timely developed, concurrently with other water planning solutions, to help this state meet its current and future water needs.

(e) The legislature finds that it is necessary and appropriate to grant authority and provide for expedited and streamlined authorization for marine seawater desalination facilities in order to avoid unnecessary costs, delays, and uncertainty and thereby help justify the investment of significant resources in the development of such facilities.

SECTION 2. Section 11.0237(b), Water Code, is amended to read as follows:

(b) This section does not alter the commission's obligations under Section 11.042(a-1), (a-2), (b), or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 3. Section 11.042, Water Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) In this subsection, "water supply entity" has the meaning assigned by Section 11.156. With prior authorization granted under rules prescribed by the commission, a water supply entity may use the bed and banks of any flowing natural stream in this state or a lake, reservoir, or other impoundment in this state to convey marine seawater that has been treated so as to meet standards that are at least as stringent as the water quality standards applicable to the receiving stream or impoundment adopted by the commission. The commission shall provide for notice and an opportunity for the submission of written comment but may not provide an opportunity for a public hearing regarding commission actions relating to an authorization under this subsection to use the bed and banks of a flowing natural stream to convey treated marine seawater. The commission shall provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested

case hearing regarding commission actions relating to an authorization under this subsection to use a lake, reservoir, or other impoundment to convey treated marine seawater. A water supply entity may not discharge treated marine seawater into a flowing natural stream in this state or a lake, reservoir, or other impoundment in this state for the purpose of conveyance of the water under an authorization granted under this subsection unless the entity holds a permit under Section 26.054 authorizing the discharge. Treated marine seawater that is conveyed under an authorization granted under this subsection may be used only by the water supply entity to which the authorization is granted. This subsection does not prohibit a water supply entity from conveying treated marine seawater in any other manner authorized by law.

SECTION 2. Section 11.121, Water Code, is amended to read as follows:

Sec. 11.121. PERMIT REQUIRED. Except as provided in Sections 11.142, 11.1421, ~~[and] 11.1422, and 11.1423 [of this code]~~, no person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit from the commission to make the appropriation.

SECTION 3. Section 11.1311, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The board may transfer interests in a permit issued under Subsection (a) [this section] to a municipality, river authority, other political subdivision, or water supply corporation organized under Chapter 67 as otherwise provided by law.

(b-1) In this subsection, "marine seawater" has the meaning assigned by Section 11.1423. On submission of an application to the commission, the commission shall issue without a hearing a permit to use the bed and banks of any flowing natural stream in the state to convey marine seawater. The commission shall adopt rules to implement a procedure for application for a permit to convey marine seawater consistent with this subsection. A flowing natural stream does not include impounded water. The commission shall provide notice and an opportunity for hearing for an application

SECTION 4. Section 11.121, Water Code, is amended to read as follows:

Sec. 11.121. PERMIT REQUIRED. Except as provided in Sections 11.142, 11.1421, ~~[and] 11.1422, and 11.156 [of this code]~~, no person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit from the commission to make the appropriation.

No equivalent provision. (*But see SECTION 3 above.*)

for a permit to convey marine seawater into or through a lake, reservoir, or other impoundment.

SECTION 4. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1423 to read as follows:

Sec. 11.1423. PERMIT EXEMPTION FOR USE BY WATER SUPPLY ENTITY OF MARINE SEAWATER. (a) In this section:

(1) "Marine seawater" means water that contains a total dissolved solids concentration based on a yearly average of samples taken at the water source of more than 10,000 milligrams per liter that is derived from the Gulf of Mexico or an adjacent bay, estuary, or arm of the Gulf of Mexico.

(2) "Water supply entity" includes:

(A) a retail public utility as defined by Section 13.002;

(B) a wholesale water supplier; or

(C) an irrigation district operating under Chapter 58.

(b) Without obtaining a permit, a water supply entity may use for any beneficial purpose state water that consists of marine seawater.

(c) A water supply entity must treat marine seawater so that it meets the water quality level of the receiving stream before the entity may put the water into a stream under an authorization granted under Section 11.042.

(d) This section does not prohibit a water supply entity from conveying water under this section in any other manner authorized by law, including through the use of facilities owned or operated by the state if authorized by the state.

No equivalent provision. *(But see SECTION 4 above and SECTION 7 below.)*

No equivalent provision. *(But see SECTION 5 below.)*

SECTION 5. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.156 to read as follows:

Sec. 11.156. PERMIT OR PERMIT EXEMPTION FOR DIVERSION AND USE OF MARINE SEAWATER BY WATER SUPPLY ENTITY. (a) In this section, "water supply entity" includes:

(1) a retail public utility as defined by Section 13.002;

(2) a wholesale water supplier; or

(3) an irrigation district operating under Chapter 58.

(b) A water supply entity must obtain a

permit to divert and use state water that consists of marine seawater if:

(1) the point of diversion is located less than six miles from any point located on the coast of this state; or

(2) the seawater contains a total dissolved solids concentration based on a yearly average of samples taken at the water source of less than 20,000 milligrams per liter.

(c) A water supply entity may divert and use state water that consists of marine seawater without obtaining a permit if Subsection (b) does not apply.

(d) A water supply entity may use marine seawater diverted as authorized by a permit issued under Subsection (b), or as authorized by Subsection (c), for any beneficial purpose, but only if the seawater is treated in accordance with rules adopted by the commission before it is used. Rules adopted under this subsection may impose different treatment requirements based on the purpose for which the seawater is to be used but must require that the seawater be treated in accordance with:

(1) Section 341.0316(b)(2), Health and Safety Code, if the water is to be used as public drinking water;

(2) Section 11.042(a-2) if the bed and banks of a flowing natural stream in this state or a lake, reservoir, or other impoundment in this state are to be used to convey the water; and
(3) Section 26.054(c)(1) if the water is to be discharged into a flowing natural stream in this state or a lake, reservoir, or other impoundment in this state.

(e) The commission shall adopt rules providing an expedited procedure for acting on an application for a permit under Subsection (b). The rules must provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding commission actions relating to a permit.

(f) The point of diversion of marine seawater may not be in a bay or estuary.

(g) The commission shall adopt rules prescribing the number of points from which, and the rate at which, a facility may divert marine seawater.

(h) The Parks and Wildlife Department and the General Land Office jointly shall conduct a study to identify zones in the Gulf of Mexico that are appropriate for the diversion of marine seawater, taking into

account the need to protect marine organisms, and shall recommend zones for designation by the commission. Not later than September 1, 2020, the commission shall adopt rules designating appropriate diversion zones. A diversion zone may be contiguous to or the same as or may overlap a discharge zone designated under Section 26.054. The point or points at which a facility may divert marine seawater must be located in a diversion zone designated by the commission under rules adopted under this subsection if:

(1) the facility is authorized by a permit issued under Subsection (b) after the rules are adopted; or

(2) the facility is exempt under Subsection (c) from the requirement of a permit and construction of the facility begins after the rules are adopted.

(i) Until the commission adopts rules under Subsection (h), a water supply entity must consult the Parks and Wildlife Department and the General Land Office regarding the point or points at which the facility the entity proposes to construct may divert marine seawater before submitting an application for a permit for the facility if Subsection (b) applies or before beginning construction of the facility if Subsection (c) applies.

SECTION 5. Section 16.053(e)(5), Water Code, is amended by adding Subsection (J) as follows:

SECTION 6. Section 16.053(e), Water Code, is amended to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions adopted under Section 36.108 for the relevant aquifers located in the regional water planning area as of the date the board most recently adopted a state water plan under Section 16.051 or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan;

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of modeled available groundwater in accordance with the guidelines provided by the development board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response;

(C) actions to be taken as part of the response; and

(D) existing major water infrastructure facilities that may be used for interconnections in the event of an emergency shortage of water;

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) approved groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, conjunctive use, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; ~~and~~

(I) emergency transfer of water under Section 11.139, including information on

(J) opportunities for and the benefits of developing large-scale desalination facilities for marine seawater that serve local or regional entities or;

No equivalent provision. (But see SECTION 7 below.)

the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder; and

(J) opportunities for and the benefits of developing large-scale desalination facilities for marine seawater that serve local or regional entities;

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists;

(8) describes the impact of proposed water projects on water quality; and

(9) includes information on:

(A) projected water use and conservation in the regional water planning area; and

(B) the implementation of state and regional water plan projects, including water conservation strategies, necessary to meet the state's projected water demands.

SECTION 7. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.054 to read as follows:

Sec. 26.054. DISCHARGE OF TREATED MARINE SEAWATER OR WASTE RESULTING FROM DESALINATION OF MARINE SEAWATER. (a) In this section, "water supply entity" has the meaning assigned by Section 11.156.

(b) A water supply entity must obtain a permit to discharge:

(1) marine seawater into a flowing natural stream in this state or a lake, reservoir, or other impoundment in this state; or

(2) waste resulting from the desalination of marine seawater into the Gulf of Mexico.

(c) A water supply entity must:

(1) treat marine seawater so as to meet standards that are at least as stringent as the water quality standards applicable to the receiving stream or impoundment adopted by the commission before discharging the seawater under a permit described by Subsection (b)(1); and

(2) comply with all applicable state and federal requirements when discharging waste resulting from the desalination of marine seawater into the Gulf of Mexico under a permit described by Subsection (b)(2).

(d) The commission shall adopt rules providing an expedited procedure for acting on an application for a permit under Subsection (b). The rules must provide for:

(1) notice, an opportunity for the submission of written comment, and an opportunity to request a public meeting and may authorize a contested case hearing regarding commission actions relating to a permit described by Subsection (b)(1);

(2) notice, an opportunity for the submission of written comment, an opportunity to request a public meeting, and an opportunity for a contested case hearing regarding commission actions relating to a permit described by Subsection (b)(2) if the point of discharge is located within six miles of any point located on the coast of this state; and

(3) notice and an opportunity for the submission of written comment regarding commission actions relating to a permit described by Subsection (b)(2) if Subdivision (2) of this subsection does not apply.

(e) A water supply entity may not discharge waste resulting from the desalination of marine seawater into a bay or estuary.

(f) The Parks and Wildlife Department and the General Land Office jointly shall conduct a study to identify zones in the Gulf of Mexico that are appropriate for the discharge of waste resulting from the desalination of marine seawater, taking into account the need to protect marine organisms, and shall recommend zones for designation by the commission. Not later than September 1, 2020, the commission shall adopt rules designating appropriate discharge zones. The point at which a facility may discharge waste resulting from the desalination of marine seawater must be located in a discharge zone designated by the commission under rules adopted under this subsection if the facility is authorized by a permit issued under Subsection (b)(2) after the rules are adopted.

(g) Until the commission adopts rules under Subsection (f), a water supply entity must

consult the Parks and Wildlife Department and the General Land Office regarding the point at which the facility the entity proposes to construct may discharge waste resulting from the desalination of marine seawater before submitting an application for a permit under Subsection (b)(2) for the facility.

SECTION 6. Section 16.060, Water Code, is repealed.

SECTION 7. Subtitle C, Title 2, Water Code, is amended by adding Chapter 14 to read as follows:

CHAPTER 14. MARINE SEAWATER DESALINATION PROJECTS AND INTEGRATED MARINE SEAWATER DESALINATION AND POWER PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 14.001. DEFINITIONS. In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Commission on Environmental Quality.
- (3) "ERCOT" means the Electric Reliability Council of Texas.
- (4) "GLO" means the General Land Office.
- (5) "Political subdivision" means a city or county or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (6) "Project" means any project to produce water supplies from marine seawater desalination, any integrated marine seawater desalination and power project, and any facilities for the storage, conveyance, and delivery of water.
- (7) "PUC" means the Public Utility Commission.
- (8) "School Land Board" means the Texas School Land Board.
- (9) "TPWD" means the Texas Parks and Wildlife Department.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 14.021 POWERS AND DUTIES OF THE BOARD. The commission has general jurisdiction over the state financial assistance of projects to produce water

SECTION 9. Same as introduced version.

No equivalent provision. (*But see SECTIONS 5 and 7 above.*)

supplies from marine seawater desalination, integrated marine seawater desalination and power projects, and facilities for the storage, conveyance, and delivery of water.

Sec. 14.022 POWERS AND DUTIES OF THE COMMISSION. (a) The commission has general jurisdiction over the permitting of projects to produce water supplies from marine seawater desalination, integrated marine seawater desalination and power projects, and facilities for the storage, conveyance, and delivery of water.

(b) The commission shall consult with the GLO, the School Land Board, the board, the TPWD, the PUC, and ERCOT, over all aspects of any project or facilities within the scope of subsection (a) that also fall within the general jurisdiction of each of those agencies.

Sec. 14.023 POWERS OF CERTAIN POLITICAL SUBDIVISIONS. A political subdivision that has a defined territory extending to the Gulf of Mexico may own all or any interest in a project or facilities within the scope of subsection (a) of section 14.021, and may sell water produced and power generated from such project.

SUBCHAPTER C. RIGHTS AND AUTHORIZATIONS

Sec. 14.031 GRANT OF WATER RIGHT TO CERTAIN POLITICAL SUBDIVISIONS. (a) The political subdivision is hereby granted the right to divert marine seawater from the Gulf of Mexico at one or more points of diversion along the Texas coast, to desalinate such water and supply and use the desalinated water within the state for all beneficial uses, and to return the concentrated saline water resulting from the desalination process to the Gulf of Mexico at one or more points of return.

(b) The political subdivision is also granted the right to use marine seawater diverted from the Gulf of Mexico via a desalination project's intake facilities for power plant cooling or any other beneficial use before the marine seawater is desalinated, and then to either desalinate the unconsumed marine seawater or return the unconsumed marine seawater to the Gulf of Mexico via the project's return facilities.

(c) There are no limitations on the number of points of diversion or the rate of diversion at any point of diversion. There are no

limitations on the number of points of return or the rate of return.

(d) The political subdivision may assign the rights granted to it under this section to any project to produce water supplies from marine seawater desalination or any integrated marine seawater desalination and power project, or to the owner(s) or operator(s) of such project.

Sec. 14.032 APPROVALS OF GLO AND SCHOOL LAND BOARD REQUIRED.

Before construction of any intake or return facilities may commence, the political subdivision first must obtain the GLO's and the School Land Board's approvals of the locations of the points of intake and return and plans and specifications for facilities located on state lands. The GLO's and School Land Board's review and approval processes are not subject to the requirements relating to a contested case hearing under any statute or rule including, without limitation, the provisions of this chapter or other chapter of the Water Code, Chapter 33, Natural Resources Code, or Subchapters C-G, Chapter 2001, Government Code.

SUBCHAPTER D. EXPEDITED AND STREAMLINED PERMITTING

Sec. 14.041 DIRECTION TO PERMITTING AUTHORITIES

(a) This section applies to all applications for permits or other authorizations, and all applications or requests for contracts, leases, easements, or grants of interests in property, needed from any state or local governmental authority for any project and facilities within the scope of subsection (a) of section 14.021. Such applications and requests include, but are not limited to, all applications to the TCEQ for permits or authorizations to discharge under Chapter 26, Water Code, all applications to the TCEQ for permits or authorizations under the Texas Clean Air Act, Chapter 382, Health and Safety Code, and all applications to the School Land Board to acquire rights in coastal public land under Chapter 33, Natural Resources Code.

(b) All governmental authorities are directed to expedite and streamline to the extent possible the processing of and action on all applications and requests.

(c) A governmental authority's processing of and action on any application for a permit or other authorization or any application or

request for a contract, lease, easement, or grant of interest in property shall not be subject to the requirements relating to a contested case hearing under any statute or rule including, without limitation, the provisions of this chapter or other chapter of the Water Code, Chapter 33, Natural Resources Code, or Subchapters C-G, Chapter 2001, Government Code.

SECTION 8. Section 341.001, Health and Safety Code, is amended by adding Subdivisions (1-a) and (2-a) to read as follows:

(1-a) "Desalination facility" means a facility used for the treatment of brackish water or marine seawater to remove dissolved mineral salts and other dissolved solids; and
(2-a) "Marine seawater" means water that contains a total dissolved solids concentration based on a yearly average of samples taken at the water source of more than 10,000 milligrams per liter that is derived from the Gulf of Mexico or an adjacent bay, estuary, or arm of the Gulf of Mexico.

SECTION 9. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.0359 to read as follows:
Sec. 341.0359. DESALINATION OF WATER FOR DRINKING WATER. (a) This section applies only to a desalination facility that is intended to produce water for the public drinking water supply. This section does not apply to a desalination facility used to produce nonpotable water.

(b) The commission shall adopt rules to:
(1) allow water treated by a desalination facility to be used as public drinking water; and
(2) ensure that water treated by a desalination facility meets the requirements of Section 341.031 and rules adopted under that section.

(c) A person may not begin construction of a desalination facility unless the commission approves in writing the plans and specifications for the facility.

(d) A person may not begin construction of a desalination facility that treats marine seawater for the purpose of removing primary or secondary drinking water

No equivalent provision.

SECTION 8. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.0316 to read as follows:
Sec. 341.0316. DESALINATION OF MARINE SEAWATER FOR DRINKING WATER. (a) This section applies only to a desalination facility that is intended to treat marine seawater for the purpose of producing water for the public drinking water supply. This section does not apply to a desalination facility used to produce nonpotable water.

(b) The commission shall adopt rules to:
(1) allow water treated by a desalination facility to be used as public drinking water; and
(2) ensure that water treated by a desalination facility meets the requirements of Section 341.031 and rules adopted under that section.

(c) A person may not begin construction of a desalination facility that treats marine seawater for the purpose of removing primary or secondary drinking water

contaminants unless the commission approves in writing a report containing:

(1) a computer model acceptable to the commission;

(2) a pilot study with a minimum 40-day run duration without treatment intervention to meet federal and state safe drinking water standards;

(3) data from a similar system installed at another desalination facility that treats source water of a similar or lower quality; or

(4) a full-scale verification protocol with a minimum 40-day run duration without treatment intervention to meet federal and state safe drinking water standards.

(e) If a full-scale verification protocol report is approved, a person may not send water to a public water distribution system without a full-scale verification study:

(1) completed after construction; and

(2) approved by the commission.

(f) Not later than the 100th day after the date the commission receives the report for a proposed desalination facility, the commission shall review the report and issue an exception response letter that may contain conditions for approval.

(g) Not later than the 60th day after the date the commission receives the plans and specifications for a proposed desalination facility, the commission shall review the plans and specifications and issue a response letter that may contain conditions for approval.

(h) A person violates this section if the person fails to meet a condition for approval in a letter issued to the person under Subsection (f) or (g).

SECTION 10. EFFECTIVE DATE OF THIS ACT. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

contaminants unless the commission approves the construction of the facility.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.