

## **BILL ANALYSIS**

C.S.H.B. 722  
By: Larson  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that development of brackish groundwater supplies is one of the water supply strategies that may be used to meet the state's future water needs and that such development could provide an alternative to traditional water sources that is both reliable and drought resistant. C.S.H.B. 722 seeks to encourage and facilitate the development of brackish groundwater by setting out provisions relating to groundwater conservation district rules for permits in brackish groundwater production zones.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 722 amends the Water Code to authorize a groundwater conservation district located over any part of a designated brackish groundwater production zone to adopt rules to govern the issuance of permits under the bill's provisions for the completion and operation of a well for the withdrawal of brackish groundwater from a designated brackish groundwater production zone. The bill requires the district to adopt such rules if the district receives a petition from a person with a legally defined interest in groundwater in the district and to adopt the rules not later than the 180th day after the date the district receives the petition. The bill applies the rules only to a permit for an applicable project. The bill provides for the following:

- authorizes a person to obtain a permit under the rules for projects, including:
  - a municipal project designed to treat brackish groundwater to drinking water standards for the purpose of providing a public source of drinking water; and
  - an electric generation project to treat brackish groundwater to water quality standards sufficient for the project needs; and
- prohibits a district from adopting rules limiting access to the production of groundwater within a designated brackish groundwater production zone to only such a municipal project or electric generation project.

C.S.H.B. 722 sets out rule requirements relating to the manner of processing an application for a brackish groundwater production zone operating permit, a cap on withdrawals and rates of withdrawal of brackish groundwater, a minimum permit term, implementation of a water monitoring system, monitoring of land elevations in certain zones, annual reports from a permit holder, provision of greater access to brackish groundwater by certain methods, groundwater property rights, and specification of all additional information required to be included in an

application. The bill requires such additional information to be reasonably related to an issue the district is authorized to consider.

C.S.H.B. 722 sets out required contents for an application for a brackish groundwater production zone operating permit. The bill requires a district to submit an application to the Texas Water Development Board (TWDB) and requires the TWDB to conduct a technical review of the application and to submit a report of the review of the application that includes certain findings and recommendations. The bill prohibits the district from scheduling a hearing on the application until the district receives the report from the TWDB.

C.S.H.B. 722 requires a district to provide the annual reports from a permit holder to the TWDB. The bill requires the TWDB, not later than the 120th day after the date the TWDB receives a request from a district, to investigate and issue a report on whether brackish groundwater production under the project that is the subject of the report from the designated brackish groundwater production zone is projected to cause:

- significant aquifer level declines in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum that were not anticipated by the TWDB in the designation of the zone;
- negative effects on water quality in an aquifer, subdivision of an aquifer, or geologic stratum; or
- for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer, subsidence during the permit term.

The bill authorizes a district, after receiving such a report from the TWDB and after applicable notice and hearing, to amend the applicable permit to establish a production limit necessary to mitigate any negative effects identified by the report, approve a mitigation plan that alleviates any of those negative effects, or both amend the permit to establish a production limit and approve a mitigation plan.

C.S.H.B. 722 provides for the following:

- requires rules adopted under the bill's provisions to provide that the production authorized from a designated brackish groundwater production zone is in addition to the amount of managed available groundwater provided under statutory provisions relating to joint planning in a management area;
- requires a district, to the extent possible, to issue permits up to the point that the total volume of exempt and permitted groundwater production in a designated brackish groundwater production zone equals the amount of brackish groundwater that may be produced annually to achieve the groundwater availability described by the TWDB in its designation of the brackish groundwater production zone; and
- authorizes a district to grant or deny an application to extend a term under the bill's provisions only using rules that were in effect at the time the application was submitted and establishes that an application for a permit under such provisions is governed solely by district rules consistent with the provisions.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 722 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions authorizing a groundwater conservation district to grant or deny an application to extend a term under the bill's provisions only using rules that were in effect at the time the application was submitted and establishing that an application for a permit under such provisions is governed solely by district rules consistent with the provisions.