

- SUBJECT:** Changing permit process for disposal of brine from desalination operations
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 7 ayes — Puente, Callegari, Campbell, R. Cook, Geren, Hamilton, Hardcastle
- 0 nays
- 2 absent — Hope, Wolens
- WITNESSES:** For — Doug Caroom, City of El Paso Water Utilities; Ken Ramirez, Poseidon Resources
- Against — None
- On — Lydia Gonzales-Gromatzky, Texas Commission on Environmental Quality; Ken Kramer, Lone Star Chapter, Sierra Club
- BACKGROUND:** Water Code, Ch. 27 regulates the operation of injection wells. Its purpose is to maintain the quality of fresh water in a manner consistent with public health and welfare, the operation of existing industries, and economic development; and to prevent underground injection that might pollute fresh water.
- An injection well is an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method. It is used to inject, transmit, or dispose of industrial or municipal waste or oil and gas waste into a subsurface stratum. Some injection wells initially were drilled to produce oil and gas, but now are used for the injection of other substances.
- Sec. 27.018 governs the hearing process for an injection well permit, including the procedure for a contested case.
- DIGEST:** HB 2567 would amend the Water Code to allow the Texas Commission on Environmental Quality (TCEQ) to issue a permit for the disposal of brine produced by a class I injection well at a desalination project without a public hearing if the applicant met all statutory and regulatory requirements for the

permit. The bill would require public notice and comment on the application, but the hearing would not be required if the permit was not subject to sec. 27.018 requirements for a contested hearing.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 2567 would streamline the permitting procedures for the disposal of brine in desalination projects. Brine occurs naturally and typically is not a hazardous waste. The public and adjacent landowners still would have the right to be informed of the permit and provide comments, but the permit would not be delayed by requiring a hearing on the matter. The applicant still would have to meet all statutory and regulatory requirements before TCEQ would issue a permit.

Contested hearings held before the State Office of Hearing Examiners are complex and expensive, and few of the involved parties have the time or resources to avail themselves of this remedy. Some land owners and even small water districts do not develop additional supplies because they do not want to be subjected to a drawn out hearings process to obtain a brine disposal permit.

The bill would fit into the overall policy established in last session's sunset review of TCEQ to develop more flexible and responsive regulatory processes while still protecting the state's water and environmental resources.

**OPPONENTS
SAY:**

HB 2567 unilaterally would eliminate any possibility of holding a contested hearing on a brine disposal permit. Some unusual circumstance might arise that would make it desirable that a neighboring landowner have an administrative remedy to address concerns about a proposed injection well. Affected parties should have some leverage to force modifications in the proposed permit rather than being allowed to vent their frustrations only through a public comment process.

NOTES:

The committee substitute differs from the bill as introduced by requiring permits to meet all statutory and regulatory requirements and eliminating references to hazardous material.