

BILL ANALYSIS

Senate Research Center
83R7698 SLB-F

S.B. 1760
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State Water Plan identifies brackish groundwater desalination as one of the water supply strategies to be used to meet the state's projected water demands over the next 50 years. Brackish groundwater desalination is the process of treating water that contains a high level of total dissolved solids to a quality where it can be used for drinking water. Without treatment, brackish groundwater is often too salty to drink or to be used for agriculture or other beneficial purposes.

The Water Code contains numerous provisions relating to groundwater planning and management, including the regulation and permitting of groundwater withdrawals by local groundwater districts under Chapter 36 (Groundwater Conservation Districts) of the Water Code. Regulation of groundwater has primarily been about potentially limited freshwater supplies; however, brackish groundwater is abundant and unused in many parts of the state. There is an estimated 2.7 billion acre-feet of brackish groundwater in Texas. Although expensive to develop, brackish supplies will provide an alternative to traditional development that is reliable, is not drought susceptible, and will reduce pressure on fresh water supplies.

In order to encourage and facilitate the development of brackish groundwater, S.B. 1760 makes a number of changes to the Water Code relating to the study, planning, and management of brackish groundwater production, including the development of model rules for permitting by groundwater conservation districts.

As proposed, S.B. 1760 amends current law relating to the development of brackish groundwater.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 5 (Section 36.1015, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.053(e), Water Code, as follows:

(e) Requires each regional water planning group to submit to the Texas Water Development Board (TWDB) a regional water plan that:

(1)-(4) Makes no change to these subdivisions;

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

(A)-(G) Makes no change to these paragraphs;

(H)-(I) Makes nonsubstantive changes; and

(J) opportunities for and the benefits of developing large-scale desalination facilities for brackish groundwater or seawater that serve

local or regional brackish groundwater production zones identified under Section 16.060 (Desalination Studies and Research); and

(6)-(9) Makes no change to these subdivisions.

SECTION 2. Amends Section 16.060, Water Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Requires TWDB to undertake or participate in research, feasibility and facility planning studies, investigations, and surveys as it considers necessary to further the development of cost-effective water supplies from seawater or brackish groundwater desalination in the state.

(b) Requires TWDB to prepare a biennial progress report on the implementation of seawater or brackish groundwater desalination activities in the state and to submit the report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year. Requires the report to include:

(1) results of TWDB's studies and activities relative to seawater or brackish groundwater desalination during the preceding biennium;

(2) identification and evaluation of research, regulatory, technical, and financial impediments to the implementation of seawater or brackish groundwater desalination projects;

(3) evaluation of the role the state should play in furthering the development of large-scale seawater or brackish groundwater desalination projects in the state;

(4) Makes no change to this subdivision; and

(5) identification of local or regional brackish groundwater production zones in areas of the state with moderate to high availability and productivity of brackish groundwater that can be used to reduce the use of fresh groundwater.

(d) Requires TWDB to consider the Brackish Groundwater Manual for Texas Regional Water Planning Groups, and any updates to the manual, when identifying areas of moderate to high availability and productivity of brackish groundwater under Subsection (b)(5).

SECTION 3. Amends Section 36.001, Water Code, by adding Subdivision (31), to define "brackish groundwater."

SECTION 4. Amends Section 36.0015, Water Code, as follows:

Sec. 36.0015. PURPOSE. Authorizes groundwater conservation directors, in order to provide for the conservation, preservation, protection, recharging, development, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, to be created as provided by this chapter.

SECTION 5. Amends Subchapter D, Chapter 36, Water Code, by adding Section 36.1015, as follows:

Sec. 36.1015. MODEL RULES FOR BRACKISH GROUNDWATER REGULATION.

(a) Requires TWDB to develop and make available model rules for the permitting of brackish groundwater production. Requires the model rules to include:

(1) a prohibition on limiting the production of brackish groundwater to achieve a desired future condition unless the executive administrator has determined the amount of modeled available groundwater specifically attributed to brackish groundwater;

(2) a minimum term of 30 years for a permit issued for a well that produces brackish groundwater;

(3) a prohibition on reducing the authorized amount of brackish groundwater that may be withdrawn from a well during the term of the permit; and

(4) other provisions that TWDB considers appropriate to encourage the development of brackish groundwater desalination projects.

(b) Requires TWDB to consider the Brackish Groundwater Manual for Texas Regional Water Planning Groups, and any updates to the manual, in developing the rules under Subsection (a).

SECTION 6. Amends Section 36.1071(a), Water Code, as follows:

(a) Requires the district, following notice and hearing, to, in coordination with surface water management entities on a regional basis, develop a management plan that addresses the following management goals, as applicable:

(1)-(6) Makes no change to these subdivisions;

(7) Makes a nonsubstantive change;

(8) Makes no change to this subdivision; and

(9) identifying goals to pursue the reduction of fresh groundwater use through brackish groundwater desalination strategies in production zones identified under Section 16.060.

SECTION 7. Amends Section 36.108(d-2), Water Code, to require that the desired future condition, to reduce reliance on fresh groundwater resources, allow the highest level of brackish groundwater production in production zones identified under Section 16.060 (Desalination Studies and Research).

SECTION 8. Amends Sections 36.117(b) and (c), Water Code, as follows:

(b) Requires a district, except as provided by this section, to provide an exemption from the district requirement to obtain a permit for:

(1) Makes no change to this subdivision;

(2) Makes a nonsubstantive change;

(3) Makes no change to this subdivision; or

(4) drilling or operating a well associated with a desalination project located in a brackish groundwater production zone identified under Section 16.060, unless a district has adopted the model rules for the permitting of brackish groundwater wells developed by TWDB.

(c) Prohibits a district from restricting the production of water from any well described by Section (b)(1) or (b)(4).

SECTION 9. Effective date: September 1, 2013.