

BILL ANALYSIS

Senate Research Center
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H.B. 2377
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Agriculture, Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that brackish groundwater desalination is one of the water supply strategies planned for use in meeting the state's future water demands. The goal of H.B. 2377 is to support this strategy by encouraging and facilitating the development of brackish groundwater.

H.B. 2377 amends current law relating to the development of brackish groundwater.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to certain groundwater conservation districts in SECTION 1 (Section 36.1015, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 36, Water Code, by adding Section 36.1015, as follows:

Sec. 36.1015. RULES FOR PERMITS IN BRACKISH GROUNDWATER PRODUCTION ZONES. (a) Defines "designated brackish groundwater production zone," "development board" and "Gulf Coast Aquifer."

(b) Authorizes a groundwater conservation district (district) located over any part of a designated brackish groundwater production zone (designated zone) to adopt rules to govern the issuance of permits for the completion and operation of a well for the withdrawal of brackish groundwater from a designated zone and requires the district to adopt rules described by this subsection if the district receives a petition from a person with a legally defined interest in groundwater in the district. Requires the district to adopt the rules not later than the 180th day after the date the district receives the petition. Provides that rules adopted under this subsection apply only to a permit for a project described by Subsection (c).

(c) Authorizes a person to obtain a permit under rules adopted under this section for certain projects.

(d) Requires the rules adopted to:

(1) provide for processing an application for a designated zone operating permit in the same manner as an application for an operating permit for a fresh groundwater well, except as provided by this section;

(2) allow withdrawals and rates of withdrawal of brackish groundwater from a designated zone not to exceed and consistent with the withdrawal amounts identified in Section 16.060(e) (relating to the duties of the Texas Water Development Board (TWDB) regarding designated zones);

(3) provide for a minimum term of 30 years for a permit issued for a well that produces brackish groundwater from a designated zone;

(4) require implementation of a monitoring system recommended by TWDB to monitor water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the designated zone is located;

(5) for a project located in a designated zone in the Gulf Coast Aquifer, require reasonable monitoring by the district of land elevations to determine if production from the project is causing or is likely to cause subsidence during the permit term;

(6) require from the holder of a permit issued under rules adopted under this section annual reports that are required to include certain information; and

(7) be consistent with and not impair property rights described by Sections 36.002(a) (relating to providing that the legislature recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property) and (b) (relating to certain rights and ownership of groundwater).

(e) Requires an application for a brackish groundwater production zone operating permit to include certain information and criteria.

(f) Requires the district to submit the application to TWDB and requires TWDB to conduct a technical review of the application. Requires TWDB to submit a report of the review of the application that includes certain findings and recommendations.

(g) Prohibits the district from scheduling hearing on the application until the district receives the report from TWDB described by Subsection (f).

(h) Requires the district to provide the reports required under Subsection (d)(6) to TWDB. Requires TWDB, not later than the 120th day after the date TWDB receives a request from the 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 zone is projected to cause:

(1) significant aquifer level declines in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum that were not anticipated by TWDB in the designation of the zone;

(2) negative effects on quality of water in an aquifer, subdivision of an aquifer, or geologic stratum; or

(3) for a project located in a designated zone in the Gulf Coast Aquifer, subsidence during the permit term.

(i) Authorizes the district, after receiving from TWDB a report issued under Subsection (h) and after notice and hearing subject to Subchapter M (Permit and Permit Amendment Applications; Notice and Hearing Process), to take certain actions.

SECTION 2. Amends Section 36.1132, Water Code, by adding Subsection (d), as follows:

(d) Authorizes that production under a permit issued under Section 36.1015 to produce brackish groundwater from a designated zone is in addition to the amount of groundwater that is authorized to be produced based on Subsections (b)(1) (relating to requiring the district in issuing permits to manage total groundwater production over a certain time to consider certain modeled available groundwater) and (2) (relating to requiring the district

in issuing permits to manage total groundwater production over a certain time to consider certain information). 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 zone equals the amount of brackish groundwater that is authorized to be produced annually to achieve the groundwater availability described by TWDB in its designation of the brackish groundwater production zone under Section 16.060(e).

SECTION 3. Effective date: September 1, 2017.