

## BILL ANALYSIS

Senate Research Center  
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C.S.H.B. 722  
By: Larson (Perry)  
Water & Rural Affairs  
5/14/2019  
Committee Report (Substituted)

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 722 amends current law relating to the development of brackish groundwater.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to any district located over any part of a designated brackish groundwater production zone 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" for purposes of this section.

(b) Provides that the requirements of this section do not apply to a district overlying the Dockum Aquifer.

(c) Authorizes a district located over any part of a designated brackish groundwater production zone to adopt rules to govern the issuance of permits under this section for the completion and operation of a well for the withdrawal of brackish groundwater from a designated brackish groundwater production 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 (d).

(d) Authorizes a person to obtain a permit under rules adopted under this section for projects including:

(1) a municipal project designed to treat brackish groundwater to drinking water standards for the purpose of providing a public source of drinking water; and

(2) an electric generation project to treat brackish groundwater to water quality standards sufficient for the project needs.

(e) Requires the rules adopted under this section to:

(1) provide for processing an application for a brackish groundwater production 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 brackish groundwater production zone not to exceed and consistent with the withdrawal amounts identified in Section 16.060(e) (relating to the board of directors of a district adhering to certain requirements in designating a brackish groundwater production zone);

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

(4) require implementation of a monitoring system recommended by the Texas Water Development Board (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 brackish groundwater production zone is located;

(5) for a project located in a designated brackish groundwater production 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:

(A) the amount of brackish groundwater withdrawn;

(B) the average monthly water quality of the brackish groundwater withdrawn and in the monitoring wells; and

(C) aquifer levels in both the designated brackish groundwater production zone and in any aquifer, subdivision of an aquifer, or geologic stratum for which the permit requires monitoring;

(7) provide greater access to brackish groundwater by simplifying procedure, avoiding delay in permitting, saving expense for the permit seeker, and providing flexibility to permit applicants and the district;

(8) be consistent with and not impair property rights described by Sections 36.002(a) (relating to groundwater ownership rights of a landowner) and (b) (relating to entitlements of groundwater ownership); and

(9) specify all additional information that must be included in an application.

(f) Requires additional information required under Subsection (e)(9) to be reasonably related to an issue the district is authorized to consider.

(g) Requires an application for a brackish groundwater production zone operating permit to include:

(1) the proposed well field design compared to the designated brackish groundwater production zone;

(2) the requested maximum groundwater withdrawal rate for the proposed project;

(3) the number and location of monitoring wells needed to determine the effects of the proposed project on water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum

in which the designated brackish groundwater production zone is located;  
and

(4) a report that includes:

(A) a simulation of the projected effects of the proposed production on water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the designated brackish groundwater production zone is located;

(B) a description of the model used for the simulation described by Paragraph (A); and

(C) sufficient information for a technical reviewer to understand the parameters and assumptions used in the model described by Paragraph (B).

(h) Requires the district to submit the application to TWDB and TWDB to conduct a technical review of the application. Requires TWDB to submit a report of the review of the application that includes:

(1) findings regarding the compatibility of the proposed well field design with the designated brackish groundwater production zone; and

(2) recommendations for the monitoring system described by Subsection (e)(4).

(i) Prohibits the district from scheduling a hearing on the application until the district receives the report from TWDB described by Subsection (h).

(j) Requires the district to provide the reports required under Subsection (e)(6) to TWDB. Requires TWDB, not later than the 120th day after the date it 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 brackish groundwater production 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 brackish groundwater production zone in the Gulf Coast Aquifer, subsidence during the permit term.

(k) Authorizes the district, after receiving from TWDB a report issued under Subsection (j) and after notice and hearing subject to Subchapter M (Permit and Permit Amendment Applications; Notice and Hearing Process), to:

(1) amend the applicable permit to establish a production limit necessary to mitigate any negative effects identified by the report;

(2) approve a mitigation plan that alleviates any negative effects identified by the report; or

(3) both amend the permit to establish a production limit and approve a mitigation plan.

(l) Requires rules adopted under this section 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 Section 36.108 (Joint Planning in 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 TWDB in its designation of the brackish groundwater production zone under Section 16.060(e).

(m) Prohibits a district from adopting rules limiting access to the production of groundwater within a designated brackish groundwater production zone to only those projects described by Subsection (d).

(n) Authorizes the district to grant or deny an application to extend a term under this section only using rules that were in effect at the time the application was submitted.

(o) Provides that an application for a permit under this section is governed solely by district rules consistent with this section.

SECTION 2. Requires TWDB to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, TWDB, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 3. Effective date: September 1, 2019.