

**SUBJECT:** Authorizing the reuse and return of treated brackish groundwater

**COMMITTEE:** Natural Resources — favorable, without amendment

**VOTE:** 9 ayes — Larson, Metcalf, Dominguez, Farrar, Harris, T. King, Nevárez, Price, Ramos

0 nays

2 absent — Lang, Oliverson

**WITNESSES:** For — Carlos Rubinstein; (*Registered, but did not testify*: Buddy Garcia, Brownsville Public Utility Board; Jay Brown, Concho Resources; Daniel Womack, Dow; Bill Oswald, Koch Companies; Tom Oney, Lower Colorado River Authority; Christina Wisdom, Occidental Petroleum; Brian Sledge, Prairielands Groundwater Conservation District; Leah Martinsson, Texas Alliance of Groundwater Districts; Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Mia Hutchens, Texas Association of Business; Mark Vickery, Texas Association of Manufacturers; Kyle Frazier, Texas Desalination Association; Billy Howe, Texas Farm Bureau; Susan Horton, Texas Municipal League; CJ Tredway, Texas Oil and Gas Association; Sandy Dunn)

Against — (*Registered, but did not testify*: Cyrus Reed, Sierra Club Lone Star Chapter)

On — Myron Hess, National Wildlife Federation; (*Registered, but did not testify*: Charles Flatten, Hill Country Alliance; Kim Wilson, Texas Commission on Environmental Quality)

**BACKGROUND:** Water Code sec. 11.042 allows individuals, corporations, and certain water districts supplying stored or conserved water to use the bank and bed of any flowing natural stream in the state to convey water from the place of storage to the place of use or the diversion point of the appropriator under rules prescribed by the Texas Commission on Environmental Quality (TCEQ).

Under sec. 11.042(b), a person who wishes to discharge and then later divert and reuse the person's existing return water flows derived from privately owned groundwater must obtain authorization from TCEQ.

Sec. 11.085 governs the transfer of water between river basins. A person may only take or divert state water from a river basin and transfer it to another basin if the person had received a water right or amendment to a permit, a certified filing, or a certificate of adjudication from the TCEQ authorizing the transfer.

**DIGEST:** HB 724 would require the Texas Commission on Environmental Quality (TCEQ) to grant an authorization to a person who already was authorized to discharge water into a watercourse or stream to discharge treated brackish groundwater or return flows from treated brackish groundwater water into a watercourse and then subsequently divert and reuse the water.

TCEQ also would be required to grant a water right or amendment to a permit, certified filing, or certificate of adjudication to an applicant who proposed to divert treated brackish groundwater or return flows derived from treated brackish groundwater and transfer the water to another river basin, as long as the applicant was authorized under the bill to discharge the water into a watercourse or stream and then subsequently divert and reuse it.

The bill would take effect September 1, 2019, and would apply only to applications filed on or after that date.

**SUPPORTERS SAY:** HB 724 would incentivize the development of a currently underused water resource through guaranteeing ownership of the treated water. Brackish groundwater is abundant and could help the state become more drought-resistant. This bill would respect existing water rights while encouraging the new production of critically needed water supplies.

**OPPONENTS SAY:** HB 724 could define brackish groundwater broadly enough that even municipally treated wastewater with any level of brackishness might

qualify, as well as brackish water currently contributing to surface flow through springs or seeps. This could adversely affect existing water rights and the environment. The bill should ensure that minimum standards for brackish water are met.