

BILL ANALYSIS

Senate Research Center

H.B. 2647
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Natural Resources & Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many power plants, as well as the mines that fuel them, are located in remote areas where the only source of water is groundwater. These power plants and mines use water for drinking, fire protection, steam processing, dewatering, and cooling. Without water, these power plants and mines are forced to shut down.

Groundwater pumping is regulated by groundwater conservation districts in the areas where groundwater conservation districts have been established. Under current law, a groundwater conservation district has the power to curtail pumping during droughts. Power plants and mines are not exempted from this curtailment. The result is that, by curtailing groundwater production during a drought, a groundwater conservation district could inadvertently jeopardize the stability of the state's power grid.

H.B. 2647 prevents groundwater conservation districts from curtailing groundwater production to a rate less than that used in 2014 by power plants and mines that fuel power plants to ensure the continuous availability of electricity in Texas and the stability of the state's power grid.

H.B. 2647 amends current law relating to a limitation on the authority to curtail groundwater production from wells used for power generation or mining.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 36, Water Code, by adding Section 36.1175, as follows:

Sec. 36.1175. POWER GENERATION EXEMPTION. (a) Provides that this section applies to a well that produces groundwater used to support the operation of a power generation facility or a mine that provides fuel to a power generation facility, including production for boiler makeup water, fire suppression, dewatering, potable water, and depressurization.

(b) Entitles an owner or operator of a well to which this section applies to petition the district for a delay in the effective date of any district action that would reduce or curtail production from a well or limit the groundwater production rate of a well to an amount that is less than:

(1) the maximum annual amount of withdrawal as of September 1, 2014, authorized by the permit, regardless of whether the permit was issued by the district or the Railroad Commission of Texas; or

(2) the maximum annual historical amount of withdrawal recorded before September 1, 2014, if the well was in operation on that date and no permit from any entity was required for the operation of the well.

(c) Authorizes the owner or operator of a well subject to this section to petition for a delay described by Subsection (b). Requires that the petition include evidence that the owner or operator is engaging in good faith efforts to identify practicable, readily available alternative sources of water with comparable quality. Requires the district, after receipt of the petition, to hold a public hearing and after the hearing to make a final determination as to whether the proposed reduction or curtailment in groundwater production would threaten public health or safety or the reliability of the electric grid. Prohibits the proposed reduction or curtailment for which the owner or operator is seeking a delay from taking effect until the district has made a final determination under this subsection.

(d) Requires the district, if the district determines under Subsection (c) that a proposed reduction or curtailment in groundwater production would threaten public health or safety or the reliability of the electric grid, to delay the effective date of the reduction or curtailment to a date not earlier than seven years after the date that the final determination is made.

(e) Authorizes an owner or operator, if the owner or operator receives a delay under Subsection (d), to petition the district at any time before the delayed effective date of the proposed reduction or curtailment to delay the effective date a second time for an additional three years as provided by this subsection. Requires the district, after receiving the petition, to hold a public hearing and after the hearing to make a final determination to approve the additional three-year delay if the district determines that:

(1) the owner or operator has engaged in good faith efforts to identify and begin implementing strategies to comply with the proposed reduction or curtailment; and

(2) implementation of the proposed reduction or curtailment in groundwater production on the date set under Subsection (d) would threaten public health or safety or the reliability of the electric grid.

(f) Requires the district, in making a final determination described by Subsection (c), (d), or (e), to request, obtain, and give great weight to an opinion issued by the Public Utility Commission of Texas.

SECTION 2. Provides that the changes in law made by this Act apply only to a reduction or curtailment in groundwater production ordered by a groundwater conservation district on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.