

By: Puente

H.B. No. 3338

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring water rights applicants and holders, water
3 utilities, and conservation and reclamation districts to adopt and
4 implement certain water conservation measures.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS

6 SECTION 1. Section 11.1271, Water Code, is amended by
7 adding Subsections (d) and (e) as follows:

8 (d) In addition to the above requirements of Subsections (a)
9 and (b), a retail or wholesale water supplier shall include with the
10 application a commitment to:

11 (1) complete and submit to the Commission and the Board an
12 annual water audit and performance indicators report, using the
13 methodology developed by the International Water Association. The
14 audit will be phased in over three years The audit shall be phased
15 in over no longer than three years. If requested, a copy of the
16 report shall be submitted to the commission and/or the board each
17 year.

18 A. At the end of years one and two, the utility shall
19 complete a high level top down water loss report. Water loss shall
20 be calculated using methodology developed by the International
21 Water Association.

22 B. At the end of year three, each utility shall complete,
23 i. an adjusted water loss report based on the completion of
24 a bottom-up audit at the end of the third year. The bottom-up audit

1 shall include evaluation of meter accuracy, billing and account
2 history, and operational records.

3 ii. A summarized water loss report that includes a
4 performance indicators report based on International Water
5 Association methodology.

6 iii. An analysis showing the utility has reduced leakage
7 through a leakage reduction program to the economic level of
8 leakage, which is defined as the level beyond which it is no longer
9 cost-effective to the utility to finance additional leakage
10 reduction; or a detailed plan and funding commitment to reduce
11 leakage to the economic level of leakage within three years.

12 (2) implementation and enforcement of regulations or
13 ordinances prohibiting water waste by leaking of any kind or
14 wasting of water during irrigation or car washing, cooling using
15 misters or any type of spray evaporation, and once through cooling
16 equipment such as ice makers, pumps, dental vacuum pumps, medical
17 devices, etc.; and

18 (3) adopt and enforce rules or ordinances requiring;

19 A. compliance by any structure with plumbing fixtures with
20 the plumbing standards in Chapter 372.002, Health and Safety Code:

21 i. either by date certain, not later than January 1, or

22 ii. at the time of sale of the structure, or

23 B. retrofit of the plumbing fixtures before the water
24 supplier provides or transfers service to a new customer.

25 (e) The water conservation plan required by this section
26 shall include a report to the commission and board on the number of
27 plumbing fixtures, by building type, retrofitted each year.

1 (f) If a person fails to comply with a provision of this
2 chapter or a rule adopted by the commission under this chapter, the
3 person may be assessed, in addition to other penalties, an
4 administrative penalty set by the commission in an amount not to
5 exceed \$5,000 for each violation.

6 SECTION 2. The heading to Section 13.136, Water Code is
7 amended to read as follows:

8 Sec. 13.136. FILING TARIFFS OF RATES, RULES, AND
9 REGULATIONS; ANNUAL FINANCIAL REPORT; WATER AUDIT REPORT

10 SECTION 3. Section 13.136 (d) is amended by adding
11 Subsection (d) to read as follows:

12 (d) A water supply corporation or water utility annually
13 shall complete and submit to the commission and executive
14 administrator of the Texas Water Development Board a water audit
15 and performance indicators report, using methodology developed by
16 the International Water Association as set out in Water Code
17 Section 11.1271 (d)(1).

18 (e) If a person fails to comply with a provision of this
19 chapter or a rule adopted by the commission under this chapter, the
20 person may be assessed, in addition to other penalties, an
21 administrative penalty set by the commission in an amount not to
22 exceed \$5,000 for each violation.

23 SECTION 4. Subchapter A, Chapter 15, Water Code is amended
24 by adding Section 15.009 to read as follows:

25 Sec. 15.009. WATER AUDIT AND PERFORMANCE INDICATORS REPORT;
26 CONSERVATION REQUIREMENTS. An applicant for financial assistance
27 under this chapter must submit with the application for financial

1 assistance a commitment to:

2 (1) complete and submit to the executive administrator a
3 water audit and performance indicators report using the methodology
4 developed by the International Water Association as described in
5 11.1271(d) (1).

6 (2) adopt and enforce rules or ordinances requiring
7 prohibiting water waste by leaking or wasting of water during
8 irrigation, car washing, cooling by misters or any type of spray
9 evaporation, and once through cooling equipment such as ice makers,
10 pumps, dental vacuum pumps, medical devices, and

11 (3) adopt and enforce rules requiring:

12 (A) compliance by any structure with plumbing fixtures
13 receiving or to receive service from the water utility with the
14 plumbing standards in Chapter 372.002, Health and Safety Code.

15 (i) by date certain, no later than January 1, 2006, or

16 (ii) at the time of sale of the structure, or

17 (B) by adopting water utility service rules and regulations
18 requiring a retrofit of the plumbing fixtures before the water
19 utility provides or transfers service to a new customer.

20 (4) if a person fails to comply with a provision of this
21 chapter or a rule adopted by the commission under this chapter, the
22 person may be assessed, in addition to other penalties, an
23 administrative penalty set by the commission in an amount not to
24 exceed \$5,000 for each violation.

25 SECTION 5. Subchapter C, Chapter 16, Water Code is amended
26 by adding Section 16.060 as follows:

27 SECTION 16.060. WATER AUDIT AND PERFORMANCE INDICATORS

1 REPORT; CONSERVATION REQUIREMENTS.

2 Every retail and wholesale water utility shall comply with
3 Water Code Section 11.1271 (b)(1)(a).

4 (a) A retail or wholesale water utility shall complete and
5 submit to the executive administrator a water audit and performance
6 indicators report using the methodology developed by the
7 International Water Association as described in 11.1271(d)(1).

8 (b) A retail or wholesale water utility shall adopt and
9 enforce rules or ordinances that:

10 (1) prohibit water waste by leaking or wasting of water
11 during irrigation, car washing, cooling by misters or any type of
12 spray evaporation, and once through cooling equipment such as ice
13 makers, pumps, dental vacuum pumps, medical devices, and

14 (3) require;

15 (A) compliance by any structure with plumbing fixtures
16 receiving or to receive service from the water utility with the
17 plumbing standards in Chapter 372.002, Health and Safety Code.

18 (i) by date certain, no later than January 1, 2006, or

19 (ii) at the time of sale of the structure, or

20 (B) by adopting water utility service rules and regulations
21 requiring a retrofit of the plumbing fixtures before the water
22 utility provides or transfers service to a new customer.

23 (d) Not later than March 1 of each year, a retail or water
24 utility shall file a report with the commission describing the
25 water utility's water waste rules, the enforcement of those rules
26 and the number of fixtures, by type of building, retrofitted during
27 the previous calendar year.

1 (e) If a person fails to comply with a provision of this
2 chapter or a rule adopted by the commission under this chapter, the
3 person may be assessed, in addition to other penalties, an
4 administrative penalty set by the commission in an amount not to
5 exceed \$5,000 for each violation.

6 SECTION 6 Subchapter E, Chapter 17, Water Code, is amended
7 by adding 17.190 to read as follows:

8 Sec. 17.190 WATER AUDIT AND PERFORMANCE INDICATORS REPORT;
9 CONSERVATION REQUIREMENTS. An applicant for financial assistance
10 under this chapter must submit with the application for financial
11 assistance a commitment to:

12 (1) complete and submit to the executive administrator a
13 water audit and performance indicators report using the methodology
14 developed by the International Water Association as described in
15 11.1271 (d) (1).

16 (2) adopt and enforce rules or ordinances requiring
17 prohibiting water waste by leaking or wasting of water during
18 irrigation, car washing, cooling by misters or any type of spray
19 evaporation, and once through cooling equipment such as ice makers,
20 pumps, dental vacuum pumps, medical devices, and

21 (3) adopt and enforce rules requiring:

22 (A) compliance by any structure with plumbing fixtures
23 receiving or to receive service from the water utility with the
24 plumbing standards in Chapter 372.002, Health and Safety Code.

25 (i) by date certain, no later than January 1, 2006, or

26 (ii) at the time of sale of the structure, or

27 (B) by adopting water utility service rules and regulations

1 requiring a retrofit of the plumbing fixtures before the water
2 utility provides or transfers service to a new customer.

3 (4) If a person fails to comply with a provision of this
4 chapter or a rule adopted by the commission under this chapter, the
5 person may be assessed, in addition to other penalties, an
6 administrative penalty set by the commission in an amount not to
7 exceed \$5,000 for each violation.

8 SECTION 7. Section 36.111, Water Code, is amended to read as
9 follows:

10 (a) ~~[The]~~ A district shall require that records be kept and
11 reports be made of the drilling, equipping, and completing of water
12 wells and of the production and use of groundwater.

13 (b) A district shall require a public water supply system
14 that is a permittee of the district to report on its accountability
15 of groundwater usage. Accountability of groundwater usage shall
16 mean the ratio of groundwater sold or otherwise accounted for to
17 groundwater produced. A district may require a public water supply
18 system to maintain a certain accountability in order to receive a
19 permit from the district. In establishing accountability criteria,
20 a district may consider the unique circumstances of rural water
21 supply systems and may establish separate criteria for these
22 systems. In lieu of the accountability report required by this
23 section, a district may accept a water audit and performance
24 indicators report prepared by the public water supply system using
25 the methodology developed by the International Water Association as
26 described in 11.1271(d)(1).

27 (c) If a person fails to comply with a provision of this

1 chapter or a rule adopted by the commission under this chapter, the
2 person may be assessed, in addition to other penalties, an
3 administrative penalty set by the commission in an amount not to
4 exceed \$5,000 for each violation.

5 SECTION 8. Subchapter H, Chapter 49, Water Code is amended
6 by adding Section 49.236 as follows:

7 Sec. 49.467 WATER AUDIT AND PERFORMANCE INDICATORS REPORT;
8 CONSERVATION REQUIREMENTS.

9 (a) A district shall complete and submit to the commission
10 an annual water audit and performance indicators report, using the
11 methodology developed by the International Water Association as
12 described in 11.1271(d)(1).

13 (b) A district shall adopt and enforce rules or ordinances
14 requiring;

15 (1) any structure with plumbing fixtures to meet the
16 plumbing standards established by Chapter 372.002, Health and
17 Safety Code:

18 (A) by date certain, not later than January 1, 2006 or

19 (B) at the time of sale of the structure, or

20 (2)a retrofit of the plumbing fixtures before service is
21 provided or transferred to a new customer.

22 (c) a district shall adopt and enforce rules or ordinances
23 prohibiting water waste by leaking or wasting of water during
24 irrigation, car washing, cooling by misters or any type of spray
25 evaporation, and once through cooling equipment such as ice makers,
26 pumps, dental vacuum pumps, medical devices.

27 (d) Not later than March 1 of each year, the district shall

1 file a report with the commission and the Texas Water Development
2 Board describing the district's water waste rules, the enforcement
3 of those rules and the number of fixtures, by type of building,
4 retrofitted during the previous calendar year.

5 (e) If a person fails to comply with a provision of this
6 chapter or a rule adopted by the commission under this chapter, the
7 person may be assessed, in addition to other penalties, an
8 administrative penalty set by the commission in an amount not to
9 exceed \$5,000 for each violation.

10 SECTION 9. (a) As soon as practicable after the effective
11 date of this Act but not later than January 1, 2004, retail or
12 wholesale water suppliers and utilities, groundwater conservation
13 districts, and conservation and reclamation districts shall adopt
14 all rules required by or necessary to implement the requirements of
15 this Act.

16 (b) Not later than January 1, 2005, a retail or wholesale
17 water supplier shall submit to the Texas Commission on
18 Environmental Quality a revised water conservation plan
19 incorporating the requirements added by Section 11.1271 Water Code,
20 as amended by this Act; and

21 (c) Not later than March 1, 2004 an entity required by this
22 Act to file a water audit and performance indicators report shall
23 file the first of those required reports.

24 SECTION 10. This Act takes effect September 1, 2003.