

BILL ANALYSIS

H.B. 79
By: Puente
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 79 is comprised of the water conservation language from SB 3 as it passed out of the House Natural Resources Committee during the 79th regular session. It includes findings, policy, and recommendations by the Water Conservation Implementation Task Force and the Texas Wildlife Association.

These findings, policy, and recommendations include voluntary land stewardship of public and private land; best management practices for voluntary water conservation measures; requirements for the submission of water conservation plans for public utilities that service over 3,300 in population with a plan review by the Texas Commission on Environmental Quality and the Texas Water Development Board (TWDB); the ability of the TWDB to use funds in the Water Loan Assistance Fund for water conservation; the development of a statewide water conservation public awareness program; water conservation systems for state-owned buildings; and requirements for a municipality with a population over 5,000 to require irrigation systems to meet certain design specifications to ensure water conservation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 6, SECTION 8, and SECTION 13 and to the Texas Water Development Board in SECTION 8 of this bill.

ANALYSIS

SECTION 1. Amends Section 1.003, Water Code, to provide that it is the public policy of the state to provide for the conservation and development of the state's natural resources, including the voluntary stewardship of public and private lands to benefit the water in the state, as defined by Section 26.001 (Definitions).

SECTION 2. Amends Subchapter A, Chapter 1, Water Code, by adding Section 1.004, as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. (a) Provides that the legislature finds that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. Provides that it is therefore the policy of this state to encourage voluntary land stewardship as a significant water management tool by providing assistance to landowners to conduct those activities.

(b) Defines "land stewardship." Sets forth certain practices which are defined as land stewardship practices.

SECTION 3. Amends Section 11.002, Water Code, to define "best management practices."

SECTION 4. Amends Section 11.0235, Water Code, to provide that the legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

SECTION 5. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.146, as follows:

Sec. 13.146. WATER CONSERVATION PLAN. Requires the Texas Commission on Environmental Quality (TCEQ) to require a retail public utility that provides potable water service to a population of 3,300 or more to submit to the executive administrator (executive administrator) of the Texas Water Development Board (board) a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002 (Definitions), or other water conservation strategies. Requires the population served by a retail public utility, for purposes of this section, to be determined on the basis of the population estimates contained in the most recent regional water plan adopted for the regional water planning area in which the retail public utility's service area is located.

SECTION 6. Amends Section 13.502, Water Code, by adding Subsections (f) through (i), as follows:

(f) Requires the property owner or manager, before the executive director of TCEQ (executive director) may approve a request to change from submetered billing to allocated billing under Subsection (e), to submit documentation to TCEQ in support of the request as provided by Subsection (i). Requires the executive director to assign TCEQ staff who are knowledgeable in water billing issues to review the documentation and make a recommendation to the executive director concerning whether to approve or disapprove the request. Requires the staff, in reviewing the documentation, to consider whether needed repairs or problems are routine in nature or are extraordinary and constitute good cause for the billing change. Prohibits the executive director from approving the request unless the property owner or manager demonstrates that all reasonable steps were taken to ensure the proper installation and maintenance of the submetering system and that the circumstances reasonably justify the billing change.

(g) Requires TCEQ by rule to require a property owner or manager requesting a billing change under Subsection (e) to provide timely notice to affected tenants of the request. Requires the notice to include information relating to the manner in which a tenant may comment to TCEQ on request.

(h) Requires the executive director, if the executive director does not approve a request for a billing change under Subsection (e), to provide to the property owner or manager an explanation of why the request was disapproved. Provides that disapproval of a request does not preclude a property owner or manager from submitting subsequent requests.

(i) Requires a property owner or manager who submits a request for a billing change under Subsection (e) to submit with the request certain relevant and detailed information necessary to support the request.

SECTION 7. Amends Section 15.102(b), Water Code, to authorize the water loan assistance fund to also be used by the board to provide grants for water conservation.

SECTION 8. Amends Chapter 16, Water Code, by adding Subchapter K, as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. Requires the executive administrator to develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. Requires the program to take into account the differences in water conservation needs of various geographic regions of the state and to be designed to complement and support existing local and regional water conservation programs.

(b) Provides that the executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only

if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Requires each entity that is required to submit a water conservation plan to TCEQ under this code to submit a copy of the plan to the executive administrator.

(b) Requires each entity that is required to submit a water conservation plan to the executive administrator, the board, or TCEQ under this code to report annually to the executive administrator on the entity's progress in implementing the plan.

(c) Requires the executive administrator to review each water conservation plan and annual report to determine compliance with the minimum requirements and submission deadlines developed under Subsection (e).

(d) Authorizes the board to notify TCEQ if the board determines that an entity has violated this section or a rule adopted under this section. Provides that notwithstanding Subsection 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the TCEQ's jurisdiction or of a rule adopted by TCEQ under a provision of this code within TCEQ's jurisdiction.

(e) Requires the board and TCEQ jointly to adopt certain rules.

SECTION 9. Amends Section 17.125, Water Code, by adding Subsection (b-2), to require the board to give priority to applications for funds for implementation of water supply projects in the state water plan by certain entities.

SECTION 10. Amends Section 26.003, Water Code, to provide that it is the policy of this state and the purpose of this subchapter to encourage the voluntary stewardship of public and private lands to benefit the water in the state.

SECTION 11. Amends Subchapter A, Chapter 2165, Government Code, by adding Section 2165.008, as follows:

Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE BUILDINGS. (a) Authorizes the Texas Building and Procurement Commission (TBPC) to contract with a private vendor, at no cost to the state, to install electronic water conservation systems on toilets, sinks, and showers in state buildings.

(b) Requires a private vendor contracting with TBPC under this section to meet certain criteria.

(c) Requires a contract between TBPC and a private vendor under this section to include a provision that will ensure a budget-neutral or positive fiscal impact on the state.

(d) Requires TBPC to contract for the installation of the conservation systems in at least 15 state buildings designated by the commission. Requires TBPC to take certain considerations into account in designating a state building under this subsection.

(e) Prohibits a private vendor that contracts with the commission under this section from receiving any remuneration under the contract until cost savings to the state have been verified by the board.

(f) Requires TBPC, not later than December 31, 2006, to submit a progress report to the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board (LBB). Requires the report to include an evaluation of the initial installation of the water conservation systems, the effectiveness of the

technology used, and the amount of cost savings to the state. Authorizes TBPC to request assistance from assistance from the state auditor and the LBB with the preparation of the report and the calculation of savings.

SECTION 12. Amends Chapter 401, Local Government Code, by adding Section 401.006, as follows:

Sec. 401.006. IRRIGATION SYSTEMS. (a) Requires a municipality with a population of 5,000 or more by ordinance to require an installer of an irrigation system to meet certain criteria.

(b) Requires the ordinance to include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by TCEQ under that section.

(c) Authorizes a municipality to employ or contract with a licensed plumbing inspector or a licensed irrigator to enforce the ordinance.

(d) Provides that this section does not apply to an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code.

SECTION 13. Amends Section 1903.053(b), Occupations Code, to require, rather than authorize, TCEQ to adopt certain rules and standards.

SECTION 14. (a) Provides that Section 13.502, Water Code, as amended by this Act, applies to a request to change from submetered billing to allocated billing for which TCEQ has not issued a final decision before the effective date of this Act.

(b) Makes application of Sections 15.102 and 17.125, Water Code, as amended by this Act, prospective.

SECTION 15. (a) Requires TBPC, not later than December 1, 2005, to submit a request for proposals from private vendors to provide water conservation systems under Section 2165.008, Government Code, as added by this Act.

(b) Requires the installation of the water conservation systems described by Subsection (a) of this section to begin not later than February 1, 2006, and to be completed by January 1, 2008.

SECTION 16. (a) Requires a municipality with a population of 5,000 or more, not later than January 1, 2007, to adopt an ordinance under Section 401.006, Local Government Code, as added by this Act.

(b) Requires TCEQ, not later than June 1, 2006, to adopt rules as required by Section 1903.053, Occupations Code, as amended by this Act, to take effect January 1, 2007.

SECTION 17. Effective date: upon passage or November 1, 2005.

EFFECTIVE DATE

Upon passage or November 1, 2005.