

By: Puente

H.B. No. 79

A BILL TO BE ENTITLED

AN ACT

relating to water conservation.

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

SECTION 1. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private

1 lands to benefit the water in the state, as defined by Section  
2 26.001.

3 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended  
4 by adding Section 1.004 to read as follows:

5 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

6 (a) The legislature finds that voluntary land stewardship enhances  
7 the efficiency and effectiveness of this state's watersheds by  
8 helping to increase surface water and groundwater supplies,  
9 resulting in a benefit to the natural resources of this state and to  
10 the general public. It is therefore the policy of this state to  
11 encourage voluntary land stewardship as a significant water  
12 management tool by providing assistance to landowners to conduct  
13 those activities.

14 (b) "Land stewardship," as used in this code, is the  
15 voluntary practice of managing land to conserve or enhance suitable  
16 landscapes and the ecosystem values of the land. Land stewardship  
17 includes land and habitat management, wildlife conservation, and  
18 watershed protection. Land stewardship practices include runoff  
19 reduction, prescribed burning, managed grazing, brush management,  
20 erosion management, reseeding with native plant species, riparian  
21 management and restoration, and spring and creek-bank protection,  
22 all of which benefit the water resources of this state.

23 SECTION 3. Section 11.002, Water Code, is amended by adding  
24 Subdivision (15) to read as follows:

25 (15) "Best management practices" means those  
26 voluntary efficiency measures developed by the commission and the  
27 board that save a quantifiable amount of water, either directly or

1 indirectly, and that can be implemented within a specified time  
2 frame.

3 SECTION 4. Subsection (b), Section 11.0235, Water Code, is  
4 amended to read as follows:

5 (b) Maintaining the biological soundness of the state's  
6 rivers, lakes, bays, and estuaries is of great importance to the  
7 public's economic health and general well-being. The legislature  
8 encourages voluntary water and land stewardship to benefit the  
9 water in the state, as defined by Section 26.001.

10 SECTION 5. Subchapter E, Chapter 13, Water Code, is amended  
11 by adding Section 13.146 to read as follows:

12 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall  
13 require a retail public utility that provides potable water service  
14 to a population of 3,300 or more to submit to the executive  
15 administrator of the board a water conservation plan based on  
16 specific targets and goals developed by the retail public utility  
17 and using appropriate best management practices, as defined by  
18 Section 11.002, or other water conservation strategies. For  
19 purposes of this section, the population served by a retail public  
20 utility shall be determined on the basis of the population  
21 estimates contained in the most recent regional water plan adopted  
22 for the regional water planning area in which the retail public  
23 utility's service area is located.

24 SECTION 6. Section 13.502, Water Code, is amended by adding  
25 Subsections (f) through (i) to read as follows:

26 (f) Before the executive director may approve a request to  
27 change from submetered billing to allocated billing under

1 Subsection (e), the property owner or manager must submit  
2 documentation to the commission in support of the request as  
3 provided by Subsection (i). The executive director shall assign  
4 commission staff who are knowledgeable in water billing issues to  
5 review the documentation and make a recommendation to the executive  
6 director concerning whether to approve or disapprove the request.  
7 In reviewing the documentation, the staff shall consider whether  
8 needed repairs or problems are routine in nature or are  
9 extraordinary and constitute good cause for the billing change.  
10 The executive director may not approve the request unless the  
11 property owner or manager demonstrates that all reasonable steps  
12 were taken to ensure the proper installation and maintenance of the  
13 submetering system and that the circumstances reasonably justify  
14 the billing change.

15 (g) The commission by rule shall require a property owner or  
16 manager requesting a billing change under Subsection (e) to provide  
17 timely notice to affected tenants of the request. The notice must  
18 include information relating to the manner in which a tenant may  
19 comment to the commission on the request.

20 (h) If the executive director does not approve a request for  
21 a billing change under Subsection (e), the executive director shall  
22 provide to the property owner or manager an explanation of why the  
23 request was disapproved. Disapproval of a request does not  
24 preclude a property owner or manager from submitting subsequent  
25 requests.

26 (i) A property owner or manager who submits a request for a  
27 billing change under Subsection (e) must submit with the request

1 any relevant and detailed information necessary to support the  
2 request, including:

3 (1) if the request is based on equipment failures:

4 (A) at least one independent itemized bid  
5 indicating the number of submeters that are malfunctioning or that  
6 need to be replaced and the cost of the equipment and labor to  
7 replace the submeters;

8 (B) copies of any relevant repair or service  
9 invoices during the previous 12 months; and

10 (C) an explanation of why the equipment failed  
11 before the end of the equipment's expected useful life, if  
12 applicable; and

13 (2) if the request is based on meter reading or billing  
14 problems:

15 (A) copies of any resident complaints, any  
16 correspondence with billing companies, and any correspondence from  
17 the commission regarding consumer complaints directly attributable  
18 to billing company problems; and

19 (B) an affidavit by the property owner or manager  
20 regarding efforts to find alternative service providers that  
21 includes an explanation of why alternative providers could not be  
22 used.

23 SECTION 7. Subsection (b), Section 15.102, Water Code, is  
24 amended to read as follows:

25 (b) The loan fund may also be used by the board to provide:

26 (1) grants or loans for projects that include  
27 supplying water and wastewater services in economically distressed

1 areas or nonborder colonias as provided by legislative  
2 appropriations, this chapter, and board rules, including projects  
3 involving retail distribution of those services; and

4 (2) grants for:

5 (A) projects for which federal grant funds are  
6 placed in the loan fund;

7 (B) projects, on specific legislative  
8 appropriation for those projects; or

9 (C) water conservation, desalination, brush  
10 control, weather modification, regionalization, and projects  
11 providing regional water quality enhancement services as defined by  
12 board rule, including regional conveyance systems.

13 SECTION 8. Chapter 16, Water Code, is amended by adding  
14 Subchapter K to read as follows:

15 SUBCHAPTER K. WATER CONSERVATION

16 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS  
17 PROGRAM. (a) The executive administrator shall develop and  
18 implement a statewide water conservation public awareness program  
19 to educate residents of this state about water conservation. The  
20 program shall take into account the differences in water  
21 conservation needs of various geographic regions of the state and  
22 shall be designed to complement and support existing local and  
23 regional water conservation programs.

24 (b) The executive administrator is required to develop and  
25 implement the program required by Subsection (a) in a state fiscal  
26 biennium only if the legislature appropriates sufficient money in  
27 that biennium specifically for that purpose.

1       Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each  
2 entity that is required to submit a water conservation plan to the  
3 commission under this code shall submit a copy of the plan to the  
4 executive administrator.

5       (b) Each entity that is required to submit a water  
6 conservation plan to the executive administrator, board, or  
7 commission under this code shall report annually to the executive  
8 administrator on the entity's progress in implementing the plan.

9       (c) The executive administrator shall review each water  
10 conservation plan and annual report to determine compliance with  
11 the minimum requirements and submission deadlines developed under  
12 Subsection (e).

13       (d) The board may notify the commission if the board  
14 determines that an entity has violated this section or a rule  
15 adopted under this section. Notwithstanding Section 7.051(b), a  
16 violation of this section or of a rule adopted under this section is  
17 enforceable in the manner provided by Chapter 7 for a violation of a  
18 provision of this code within the commission's jurisdiction or of a  
19 rule adopted by the commission under a provision of this code within  
20 the commission's jurisdiction.

21       (e) The board and commission jointly shall adopt rules:

22           (1) identifying the minimum requirements and  
23 submission deadlines for the water conservation plans described by  
24 Subsection (b) and the annual reports required by that subsection;  
25 and

26           (2) providing for the enforcement of this section and  
27 rules adopted under this section.

1 SECTION 9. Section 17.125, Water Code, is amended by adding  
2 Subsection (b-2) to read as follows:

3 (b-2) The board shall give priority to applications for  
4 funds for implementation of water supply projects in the state  
5 water plan by entities that:

6 (1) have already demonstrated significant water  
7 conservation savings; or

8 (2) will achieve significant water conservation  
9 savings by implementing the proposed project for which the  
10 financial assistance is sought.

11 SECTION 10. Section 26.003, Water Code, is amended to read  
12 as follows:

13 Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of  
14 this state and the purpose of this subchapter to maintain the  
15 quality of water in the state consistent with the public health and  
16 enjoyment, the propagation and protection of terrestrial and  
17 aquatic life, and the operation of existing industries, taking into  
18 consideration the economic development of the state; to encourage  
19 and promote the development and use of regional and areawide waste  
20 collection, treatment, and disposal systems to serve the waste  
21 disposal needs of the citizens of the state; to encourage the  
22 voluntary stewardship of public and private lands to benefit the  
23 water in the state; and to require the use of all reasonable methods  
24 to implement this policy.

25 SECTION 11. Subchapter A, Chapter 2165, Government Code, is  
26 amended by adding Section 2165.008 to read as follows:

27 Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE

1 BUILDINGS. (a) The commission may contract with a private vendor,  
2 at no cost to the state, to install electronic water conservation  
3 systems on toilets, sinks, and showers in state buildings.

4 (b) A private vendor contracting with the commission under  
5 this section must:

6 (1) demonstrate that the electronic water  
7 conservation systems used will yield an annual cost savings, as  
8 verified by the Texas Water Development Board, of at least 50  
9 percent of the amount of current plumbing operation costs;

10 (2) have a minimum of five years of verifiable  
11 experience with retrofit installations in public buildings;

12 (3) use technological equipment that has a five-year  
13 history of use in public buildings;

14 (4) have demonstrable experience with the use and  
15 reuse of gray water; and

16 (5) have demonstrable experience with the use of  
17 rainwater harvesting.

18 (c) A contract between the commission and a private vendor  
19 under this section must include a provision that will ensure a  
20 budget-neutral or positive fiscal impact on the state.

21 (d) The commission shall contract for the installation of  
22 the conservation systems in at least 15 state buildings designated  
23 by the commission. In designating a state building under this  
24 subsection, the commission shall consider:

25 (1) the building where the greatest amount of savings  
26 can be achieved;

27 (2) the age of the building; and

1           (3) the potential operational and security concerns of  
2 the building.

3           (e) A private vendor that contracts with the commission  
4 under this section may not receive any remuneration under the  
5 contract until cost savings to the state have been verified by the  
6 Texas Water Development Board.

7           (f) Not later than December 31, 2006, the commission shall  
8 submit a progress report to the lieutenant governor, the speaker of  
9 the house of representatives, and the Legislative Budget Board.  
10 The report must include an evaluation of the initial installation  
11 of the water conservation systems, the effectiveness of the  
12 technology used, and the amount of cost savings to the state. The  
13 commission may request assistance from the state auditor and the  
14 Legislative Budget Board with the preparation of the report and the  
15 calculation of savings.

16           SECTION 12. Chapter 401, Local Government Code, is amended  
17 by adding Section 401.006 to read as follows:

18           Sec. 401.006. IRRIGATION SYSTEMS. (a) A municipality with  
19 a population of 5,000 or more by ordinance shall require an  
20 installer of an irrigation system:

21           (1) to hold a license issued under Section 1903.251,  
22 Occupations Code; and

23           (2) to obtain a permit before installing a system  
24 within the territorial limits or extraterritorial jurisdiction of  
25 the municipality.

26           (b) The ordinance shall include minimum standards and  
27 specifications for designing, installing, and operating irrigation

1 systems in accordance with Section 1903.053, Occupations Code, and  
2 any rules adopted by the Texas Commission on Environmental Quality  
3 under that section.

4 (c) A municipality may employ or contract with a licensed  
5 plumbing inspector or a licensed irrigator to enforce the  
6 ordinance.

7 (d) This section does not apply to an on-site sewage  
8 disposal system, as defined by Section 366.002, Health and Safety  
9 Code.

10 SECTION 13. Subsection (b), Section 1903.053, Occupations  
11 Code, is amended to read as follows:

12 (b) The commission shall [~~may~~] adopt:

13 (1) standards relating to:

14 (A) the design, installation, and operation of  
15 [~~for~~] irrigation systems;

16 (B) [~~that include~~] water conservation; and

17 (C) the duties and responsibilities of licensed  
18 irrigators; and

19 (2) rules that provide for effective enforcement of  
20 those standards[~~, irrigation system design and installation, and~~  
21 ~~compliance with municipal codes].~~

22 SECTION 14. (a) Section 13.502, Water Code, as amended by  
23 this Act, applies to a request to change from submetered billing to  
24 allocated billing for which the Texas Commission on Environmental  
25 Quality has not issued a final decision before the effective date of  
26 this Act.

27 (b) Sections 15.102 and 17.125, Water Code, as amended by

1 this Act, apply only to an application for financial assistance  
2 filed with the Texas Water Development Board on or after the  
3 effective date of this Act. An application for financial assistance  
4 filed before the effective date of this Act is governed by the law  
5 in effect on the date the application was filed, and the former law  
6 is continued in effect for that purpose.

7 SECTION 15. (a) Not later than December 1, 2005, the Texas  
8 Building and Procurement Commission shall submit a request for  
9 proposals from private vendors to provide water conservation  
10 systems under Section 2165.008, Government Code, as added by this  
11 Act.

12 (b) The initial installation of the water conservation  
13 systems described by Subsection (a) of this section shall begin not  
14 later than February 1, 2006, and shall be completed by January 1,  
15 2008.

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

20 (b) Not later than June 1, 2006, the Texas Commission on  
21 Environmental Quality shall adopt rules as required by Section  
22 1903.053, Occupations Code, as amended by this Act, to take effect  
23 January 1, 2007.

24 SECTION 17. This Act takes effect immediately if it  
25 receives a vote of two-thirds of all the members elected to each  
26 house, as provided by Section 39, Article III, Texas Constitution.  
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect November 1, 2005.