

1-1 By: Duncan S.B. No. 57
1-2 (In the Senate - Filed June 29, 2005; June 29, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 July 6, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; July 6, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to water conservation.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 1.003, Water Code, is amended to read as
1-11 follows:

1-12 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
1-13 state to provide for the conservation and development of the
1-14 state's natural resources, including:

1-15 (1) the control, storage, preservation, and
1-16 distribution of the state's storm and floodwaters and the waters of
1-17 its rivers and streams for irrigation, power, and other useful
1-18 purposes;

1-19 (2) the reclamation and irrigation of the state's
1-20 arid, semiarid, and other land needing irrigation;

1-21 (3) the reclamation and drainage of the state's
1-22 overflowed land and other land needing drainage;

1-23 (4) the conservation and development of its forest,
1-24 water, and hydroelectric power;

1-25 (5) the navigation of the state's inland and coastal
1-26 waters; ~~and~~

1-27 (6) the maintenance of a proper ecological environment
1-28 of the bays and estuaries of Texas and the health of related living
1-29 marine resources; and

1-30 (7) the voluntary stewardship of public and private
1-31 lands to benefit the water in the state, as defined by Section
1-32 26.001.

1-33 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended
1-34 by adding Section 1.004 to read as follows:

1-35 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

1-36 (a) The legislature finds that voluntary land stewardship
1-37 enhances the efficiency and effectiveness of this state's
1-38 watersheds by helping to increase surface water and groundwater
1-39 supplies, resulting in a benefit to the natural resources of this
1-40 state and to the general public. It is therefore the policy of this
1-41 state to encourage voluntary land stewardship as a significant
1-42 water management tool by providing assistance to landowners to
1-43 conduct those activities.

1-44 (b) "Land stewardship," as used in this code, is the
1-45 voluntary practice of managing land to conserve or enhance suitable
1-46 landscapes and the ecosystem values of the land. Land stewardship
1-47 includes land and habitat management, wildlife conservation, and
1-48 watershed protection. Land stewardship practices include runoff
1-49 reduction, prescribed burning, managed grazing, brush management,
1-50 erosion management, reseeding with native plant species, riparian
1-51 management and restoration, and spring and creek-bank protection,
1-52 all of which benefit the water resources of this state.

1-53 SECTION 3. Section 11.002, Water Code, is amended by adding
1-54 Subdivision (15) to read as follows:

1-55 (15) "Best management practices" means those
1-56 voluntary efficiency measures developed by the commission and the
1-57 board that save a quantifiable amount of water, either directly or
1-58 indirectly, and that can be implemented within a specified time
1-59 frame.

1-60 SECTION 4. Subsection (b), Section 11.0235, Water Code, is
1-61 amended to read as follows:

1-62 (b) Maintaining the biological soundness of the state's
1-63 rivers, lakes, bays, and estuaries is of great importance to the
1-64 public's economic health and general well-being. The legislature

2-1 encourages voluntary water and land stewardship to benefit the
 2-2 water in the state, as defined by Section 26.001.

2-3 SECTION 5. Subchapter E, Chapter 13, Water Code, is amended
 2-4 by adding Section 13.146 to read as follows:

2-5 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
 2-6 require a retail public utility that provides potable water service
 2-7 to a population of 3,300 or more to submit to the executive
 2-8 administrator of the board a water conservation plan based on
 2-9 specific targets and goals developed by the retail public utility
 2-10 and using appropriate best management practices, as defined by
 2-11 Section 11.002, or other water conservation strategies. For
 2-12 purposes of this section, the population served by a retail public
 2-13 utility shall be determined on the basis of the population
 2-14 estimates contained in the most recent regional water plan adopted
 2-15 for the regional water planning area in which the retail public
 2-16 utility's service area is located.

2-17 SECTION 6. Section 13.502, Water Code, is amended by adding
 2-18 Subsections (f) through (i) to read as follows:

2-19 (f) Before the executive director may approve a request to
 2-20 change from submetered billing to allocated billing under
 2-21 Subsection (e), the property owner or manager must submit
 2-22 documentation to the commission in support of the request as
 2-23 provided by Subsection (i). The executive director shall assign
 2-24 commission staff who are knowledgeable in water billing issues to
 2-25 review the documentation and make a recommendation to the executive
 2-26 director concerning whether to approve or disapprove the request.
 2-27 In reviewing the documentation, the staff shall consider whether
 2-28 needed repairs or problems are routine in nature or are
 2-29 extraordinary and constitute good cause for the billing change.
 2-30 The executive director may not approve the request unless the
 2-31 property owner or manager demonstrates that all reasonable steps
 2-32 were taken to ensure the proper installation and maintenance of the
 2-33 submetering system and that the circumstances reasonably justify
 2-34 the billing change.

2-35 (g) The commission by rule shall require a property owner or
 2-36 manager requesting a billing change under Subsection (e) to provide
 2-37 timely notice to affected tenants of the request. The notice must
 2-38 include information relating to the manner in which a tenant may
 2-39 comment to the commission on the request.

2-40 (h) If the executive director does not approve a request for
 2-41 a billing change under Subsection (e), the executive director shall
 2-42 provide to the property owner or manager an explanation of why the
 2-43 request was disapproved. Disapproval of a request does not
 2-44 preclude a property owner or manager from submitting subsequent
 2-45 requests.

2-46 (i) A property owner or manager who submits a request for a
 2-47 billing change under Subsection (e) must submit with the request
 2-48 any relevant and detailed information necessary to support the
 2-49 request, including:

2-50 (1) if the request is based on equipment failures:

2-51 (A) at least one independent itemized bid
 2-52 indicating the number of submeters that are malfunctioning or that
 2-53 need to be replaced and the cost of the equipment and labor to
 2-54 replace the submeters;

2-55 (B) copies of any relevant repair or service
 2-56 invoices during the previous 12 months; and

2-57 (C) an explanation of why the equipment failed
 2-58 before the end of the equipment's expected useful life, if
 2-59 applicable; and

2-60 (2) if the request is based on meter reading or billing
 2-61 problems:

2-62 (A) copies of any resident complaints, any
 2-63 correspondence with billing companies, and any correspondence from
 2-64 the commission regarding consumer complaints directly attributable
 2-65 to billing company problems; and

2-66 (B) an affidavit by the property owner or manager
 2-67 regarding efforts to find alternative service providers that
 2-68 includes an explanation of why alternative providers could not be
 2-69 used.

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

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

(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

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

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

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

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

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM.

(a) The executive administrator shall develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. The program shall take into account the differences in water conservation needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water conservation programs.

(b) 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) Each entity that is required to submit a water conservation plan to the commission under this code shall submit a copy of the plan to the executive administrator.

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

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

(d) The board may notify the commission if the board determines that an entity has violated this section or a rule adopted under this section. Notwithstanding Section 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 commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.

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

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

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

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

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

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

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

4-1 SECTION 10. Section 26.003, Water Code, is amended to read
4-2 as follows:

4-3 Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of
4-4 this state and the purpose of this subchapter to maintain the
4-5 quality of water in the state consistent with the public health and
4-6 enjoyment, the propagation and protection of terrestrial and
4-7 aquatic life, and the operation of existing industries, taking into
4-8 consideration the economic development of the state; to encourage
4-9 and promote the development and use of regional and areawide waste
4-10 collection, treatment, and disposal systems to serve the waste
4-11 disposal needs of the citizens of the state; to encourage the
4-12 voluntary stewardship of public and private lands to benefit the
4-13 water in the state; and to require the use of all reasonable methods
4-14 to implement this policy.

4-15 SECTION 11. Subchapter A, Chapter 2165, Government Code, is
4-16 amended by adding Section 2165.008 to read as follows:

4-17 Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE
4-18 BUILDINGS. (a) The commission may contract with a private vendor,
4-19 at no cost to the state, to install electronic water conservation
4-20 systems on toilets, sinks, and showers in state buildings.

4-21 (b) A private vendor contracting with the commission under
4-22 this section must:

4-23 (1) demonstrate that the electronic water
4-24 conservation systems used will yield an annual cost savings, as
4-25 verified by the Texas Water Development Board, of at least 50
4-26 percent of the amount of current plumbing operation costs;

4-27 (2) have a minimum of five years of verifiable
4-28 experience with retrofit installations in public buildings;

4-29 (3) use technological equipment that has a five-year
4-30 history of use in public buildings;

4-31 (4) have demonstrable experience with the use and
4-32 reuse of gray water; and

4-33 (5) have demonstrable experience with the use of
4-34 rainwater harvesting.

4-35 (c) A contract between the commission and a private vendor
4-36 under this section must include a provision that will ensure a
4-37 budget-neutral or positive fiscal impact on the state.

4-38 (d) The commission shall contract for the installation of
4-39 the conservation systems in at least 15 state buildings designated
4-40 by the commission. In designating a state building under this
4-41 subsection, the commission shall consider:

4-42 (1) the building where the greatest amount of savings
4-43 can be achieved;

4-44 (2) the age of the building; and

4-45 (3) the potential operational and security concerns of
4-46 the building.

4-47 (e) A private vendor that contracts with the commission
4-48 under this section may not receive any remuneration under the
4-49 contract until cost savings to the state have been verified by the
4-50 Texas Water Development Board.

4-51 (f) Not later than December 31, 2006, the commission shall
4-52 submit a progress report to the lieutenant governor, the speaker of
4-53 the house of representatives, and the Legislative Budget Board.
4-54 The report must include an evaluation of the initial installation
4-55 of the water conservation systems, the effectiveness of the
4-56 technology used, and the amount of cost savings to the state. The
4-57 commission may request assistance from the state auditor and the
4-58 Legislative Budget Board with the preparation of the report and the
4-59 calculation of savings.

4-60 SECTION 12. Chapter 401, Local Government Code, is amended
4-61 by adding Section 401.006 to read as follows:

4-62 Sec. 401.006. IRRIGATION SYSTEMS. (a) A municipality with
4-63 a population of 5,000 or more by ordinance shall require an
4-64 installer of an irrigation system:

4-65 (1) to hold a license issued under Section 1903.251,
4-66 Occupations Code; and

4-67 (2) to obtain a permit before installing a system
4-68 within the territorial limits or extraterritorial jurisdiction of
4-69 the municipality.

5-1 (b) The ordinance shall include minimum standards and
5-2 specifications for designing, installing, and operating irrigation
5-3 systems in accordance with Section 1903.053, Occupations Code, and
5-4 any rules adopted by the Texas Commission on Environmental Quality
5-5 under that section.

5-6 (c) A municipality may employ or contract with a licensed
5-7 plumbing inspector or a licensed irrigator to enforce the
5-8 ordinance.

5-9 (d) This section does not apply to an on-site sewage
5-10 disposal system, as defined by Section 366.002, Health and Safety
5-11 Code.

5-12 SECTION 13. Subsection (b), Section 1903.053, Occupations
5-13 Code, is amended to read as follows:

5-14 (b) The commission shall ~~may~~ adopt:

5-15 (1) standards relating to:

5-16 (A) the design, installation, and operation of
5-17 [for] irrigation systems;

5-18 (B) ~~[that include]~~ water conservation; and

5-19 (C) the duties and responsibilities of licensed
5-20 irrigators; and

5-21 (2) rules that provide for effective enforcement of
5-22 those standards~~[, irrigation system design and installation, and~~
5-23 ~~compliance with municipal codes].~~

5-24 SECTION 14. (a) Section 13.502, Water Code, as amended by
5-25 this Act, applies to a request to change from submetered billing to
5-26 allocated billing for which the Texas Commission on Environmental
5-27 Quality has not issued a final decision before the effective date of
5-28 this Act.

5-29 (b) Sections 15.102 and 17.125, Water Code, as amended by
5-30 this Act, apply only to an application for financial assistance
5-31 filed with the Texas Water Development Board on or after the
5-32 effective date of this Act. An application for financial
5-33 assistance filed before the effective date of this Act is governed
5-34 by the law in effect on the date the application was filed, and the
5-35 former law is continued in effect for that purpose.

5-36 SECTION 15. (a) Not later than December 1, 2005, the Texas
5-37 Building and Procurement Commission shall submit a request for
5-38 proposals from private vendors to provide water conservation
5-39 systems under Section 2165.008, Government Code, as added by this
5-40 Act.

5-41 (b) The initial installation of the water conservation
5-42 systems described by Subsection (a) of this section shall begin not
5-43 later than February 1, 2006, and shall be completed by January 1,
5-44 2008.

5-45 SECTION 16. (a) Not later than January 1, 2007, a
5-46 municipality with a population of 5,000 or more shall adopt an
5-47 ordinance under Section 401.006, Local Government Code, as added by
5-48 this Act.

5-49 (b) Not later than June 1, 2006, the Texas Commission on
5-50 Environmental Quality shall adopt rules as required by Section
5-51 1903.053, Occupations Code, as amended by this Act, to take effect
5-52 January 1, 2007.

5-53 SECTION 17. This Act takes effect immediately if it
5-54 receives a vote of two-thirds of all the members elected to each
5-55 house, as provided by Section 39, Article III, Texas Constitution.
5-56 If this Act does not receive the vote necessary for immediate
5-57 effect, this Act takes effect November 1, 2005.

5-58 * * * * *