

BILL ANALYSIS

H.B. 1223
By: Puente
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2003, in an effort to realize water conservation's full potential, the 78th Texas Legislature created the Water Conservation Implementation Task Force via enactment of Senate Bill 1094. The Task Force was directed in SB 1094 to review, evaluate, and recommend optimum levels of water-use efficiency and conservation for Texas and to concentrate on issues related to (1) best management practices, (2) implementation of conservation strategies contained in regional water plans, (3) a statewide public-awareness program, (4) state funding of incentive programs, (5) goals and targets for per-capita water use considering climatic and demographic differences, and (6) evaluation of state oversight and support of conservation.

The Task Force completed its charges and submitted a report to the 79th Texas Legislature on November 1, 2004. One of the Task Force's recommendations was passage of legislation enhancing performance standards for toilets to ensure that toilets sold in the state cannot be retrofitted so that they waste water. Since 1991, the Texas Commission on Environmental Quality ("TCEQ") has been authorized to enforce plumbing fixture standards by Chapter 372, Health and Safety Code.

This bill enhances performance standards for toilets to improve conservation. The 2002 State Water Plan recognizes conservation-based water management as one of the most effective strategies to help meet this challenge and ensure that the future water needs of Texans are met.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

SECTION 1. Sets forth legislative findings that:

- (1) conservation makes the most efficient use of water;
- (2) installation of 1.6 gallon per flush toilets has achieved significant conservation already;
- (3) water shortages and a state financial burden could result from not achieving the water savings expected to be achieved by this bill;
- (4) some toilets use significantly more than 1.6 gallons per flush because of their design;
- (5) toilet standards should ensure good performance;
- (6) water conservation also results in reduced energy usage; and
- (7) reduced energy use also improves air quality.

SECTION 2. Amends Sec. 372.002, Health and Safety Code, as follows.

- (a) Prohibits plumbing fixtures from being sold in Texas unless they meet the performance standards in (b-1).
- (b-1) Requires TCEQ by rule to establish specifications and testing procedures for toilets to ensure performance and efficiency. The specifications and testing procedures must ensure that:
 - (1) the toilet has a maximum tank capacity of, or discharges a maximum volume of, not more than 2.0 gallons of water;
 - (2) if the original flapper or other sealing device is replaced in an original toilet, that the new flapper or seal device does not

discharge more than 2.0 gallons of water when the field adjustment of the toilet tank trim is set at the toilet's maximum water use setting;

- (3) a toilet tank flapper must remain leak-free if consumer products containing bleach or other chemical agents are used;
 - (4) ensures that any in-tank barrier, bucket or dam designed to restrict, retard or slow the flow of water is tamper-proof or permanently affixed to the tank so that attempted removal renders the tank unusable;
 - (5) requires any flapper valve chain, if used, be made of plastic or metal as a beaded or linked chain;
 - (6) requires a fill valve to be a pilot valve type; and
 - (7) removes at least 250 grams of media using a maximum performance protocol adopted by the TCEQ.
- (b-2) In adopting rules under (b-1), the TCEQ is required to seek guidance from the Los Angeles Department of Water and Power's standards. Requires TCEQ to review any subsequent amendments to the Los Angeles standards and determine if commission rules need to be updated accordingly.
- (c) Amends TCEQ's existing authority to maintain a list of plumbing fixtures certified to the commission by manufacturers or importers to meet the performance standards established by this bill, and requires a manufacturer or importer to submit independent laboratory test results to verify its products meet the standards.

SECTION 3. (a) Requires TCEQ to adopt rules by January 1, 2006. (b) Changes to this code are only applicable to toilets sold, offered for sale, distributed, or imported into Texas on or after January 1, 2007.

EFFECTIVE DATE

HB 1223 takes effect September 1, 2005.