

BILL ANALYSIS

C.S.H.B. 2299
By: Paxton
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Because of the rapid growth in population in Texas, and the frequency of drought conditions, the state faces ongoing water shortages, continuous rationing, and significant concerns about the sustainability of our economic development. While the development of new water sources is being pursued, water conservation must be an integral party of our state's water plan.

Irrigation systems are one area in which the state can conserve significant amounts of water. During a typical warm month between 60 and 70% of residential water use goes toward watering the lawn. According to industry estimates, as much as 50% of that water is wasted. Because of advances in technology, "smart irrigation controllers" have become a reasonable expense for the average homeowner and commercial property owner, and these controllers can dramatically reduce the amount of water wasted.

The purpose of C.S.H.B. 2299 is to propel the widespread implementation of smart irrigation controllers through a combination of mandated changes in municipal building codes and an eventual ban on the sale of old-style 'dummy' controllers.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 and SECTION 3 of this bill.

ANALYSIS

SECTION 1. Amends Chapter 5, Water Code, by adding Subchapter S as follows:

Section 5.901. DEFINITIONS. Defines the following terms: evapotranspiration, evapotranspiration-based irrigation control, irrigation application, irrigation runoff, irrigation system, and smart irrigation controller.

Section 5.902. MINIMUM STANDARDS GOVERNING CERTAIN IRRIGATION SYSTEM EQUIPMENT.

- (a) Provides that this section applies only to an irrigation system owned by this state or a political subdivision of this state.
- (b) Provides that the Texas Commission on Environmental Quality (the commission) require a new or existing irrigation system to have a smart irrigation controller that:
 - (1) receives evapotranspiration data in a manner prescribed by commission rule; and
 - (2) includes an independent local rain and freeze shut-off device.
- (c) Exempts an existing irrigation system if the cost of installing a smart irrigation controller exceeds the amount of money saved by the installation over a period of one year.

(d) Requires the commission to establish guidelines to assist political subdivisions in determining for purposes of Subsection (c) whether the cost of installing a smart irrigation controller will exceed the amount of money saved by the installation.

(e) Provides that not later than June 1, 2009, this state and each political subdivision of this state must comply with this section.

Section 5.903. MANDATORY IRRIGATION SYSTEM EQUIPMENT ORDINANCE.

(a) Requires the commission to develop a model ordinance for use by each political subdivision of this state that requires new irrigation systems to have smart irrigation controls based on climatic conditions, specific terrains and soil types, and other environmental conditions. Provides that the ordinance include:

(1) a requirement that an irrigation system located in the political subdivision have a smart irrigation controller with certain features;

(2) the minimum requirements that must be met to comply with this section for controllers based on various technologies, including certain enumerated technologies;

(3) a requirement that the political subdivision withhold a certificate of occupancy for a residential or commercial structure until the political subdivision determines that the irrigation system used by the structure complies with the ordinance;

(4) a requirement that, before the effective date of a contract binding a purchaser to purchase residential or commercial property that has an irrigation system, the purchaser or seller, or both, must ensure that the irrigation system complies with the ordinance;

(5) references the local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment; and

(6) climate information for developing irrigation applications.

(b) Requires a political subdivision of this state to adopt an ordinance that meets or exceeds the requirements provided by Subsection (a) not later than June 1, 2009. If a political subdivision does not adopt an ordinance by that date, the political subdivision is required to adopt the model ordinance described in Subsection (a).

(c) The section does not apply to a political subdivision that does not have authority under other law to adopt or enforce an ordinance described by Subsection (b).

Sec. 5.904. CERTAIN IRRIGATION SYSTEM EQUIPMENT REQUIRED.

(a) Prohibits the sale or installation of an irrigation controller in this state after January 1, 2011 unless the irrigation controller is a smart irrigation controller.

(b) Requires that the commission require each new or existing irrigation system to have a smart irrigation controller that includes an independent local rain and freeze shut-off device.

SECTION 2. Amends Section 1903.053, Occupations Code, by adding Subsections (d) and (e) as follows:

(d) provides that, except as provided by Subsection (e) any new installation or repair or alteration of an existing system, after June 1, 2009, must meet the standard for smart irrigation controller capabilities as prescribed by Section 5.902(b), Water Code.

(e) This section applies to the repair or alteration of an existing irrigation system only if the repair or alteration requires the replacement of the controller or the irrigation system supplies water to a landscaped area that is to be increased by more than 20 percent.

SECTION 3. Not later than June 1, 2008, the Texas Commission on Environmental Quality is required to adopt rules necessary to implement Subchapter S, Chapter 5, Water Code, and Sections 1903.053 (d) and (e), Occupations Code, as added by this Act.

SECTION 4. Effective Date: Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute deletes definitions of irrigation schedule and on-site evapotranspiration, remote evapotranspiration, and runoff control and inserts a definition for irrigation application and smart irrigation controller. The substitute, in the definition of evapotranspiration-based irrigation control, references evapotranspiration data based on climatic conditions and other data to make daily adjustments to irrigation applications, rather than seasonal adjustments to irrigation schedules, as stated in the introduced bill. The substitute removes all references to requiring on-site or remote evapotranspiration controllers and substitutes the more broadly defined term 'smart irrigation controller.'

The substitute replaces the standard to determine which irrigation systems owned by the state or political subdivision need to be retrofitted or originally designed as required by Subchapter S, Chapter 5, Water Code, instructs the commission to develop guidelines for them to use in making that determination, and gives the political subdivisions additional time to comply with the statute. The substitute also removes a provision in the introduced bill that exempted state or municipally owned irrigation systems that distribute water only to a small acreage.

The substitute alters the minimum requirements for the smart irrigation controllers in a model ordinance, developed by the commission for use by political subdivisions, and adds more components to the model ordinance including a requirement that certificates of occupancy cannot be granted until the political subdivision determines that the irrigation system is in compliance and existing properties cannot be sold until the irrigation system is in compliance. It also clarifies the intent of the language requiring all controllers sold or installed after January 1, 2011 to be smart irrigation controllers, requiring each new or existing irrigation system to have a smart irrigation controller that includes an independent local rain and freeze shut-off device.

The substitute requires a political subdivision to adopt an ordinance that meets or exceeds the requirements provided by this bill, not later than June 1, 2009. If a political subdivision does not adopt an ordinance by that date, the political subdivision is required to adopt the model ordinance described by this bill.

The substitute provides that the provisions relating to a mandatory ordinance do not apply to a political subdivision that does not have authority under other law to adopt or enforce an ordinance.

The substitute alters deadlines in the bill, extending the time for state or political subdivisions to install or retrofit with respect to government-owned irrigation systems and for political subdivisions to adopt an ordinance, and the deadline for when licensed installers must begin installing or retrofitting only smart irrigation controllers.

Finally, the substitute provides that not later than June 1, 2008 the Texas Commission on Environmental Quality is required to adopt rules necessary to implement Subchapter S, Chapter 5, Water Code, and Sections 1903.053 (d) and (e), Occupations Code, as added by this Act.