

1-1 By: Puente (Senate Sponsor - Averitt) H.B. No. 4
1-2 (In the Senate - Received from the House May 2, 2007;
1-3 May 7, 2007, read first time and referred to Committee on Natural
1-4 Resources; May 21, 2007, reported favorably, as amended, by the
1-5 following vote: Yeas 11, Nays 0; May 21, 2007, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Jackson

1-7 Amend H.B. No. 4 by striking SECTIONS 6 and 16 of the bill
1-8 (Engrossed Version, page 3, line 57, through page 4, line 3, and
1-9 page 6, lines 8 through 15, respectively) and renumbering the
1-10 remaining SECTIONS of the bills accordingly.

1-11 A BILL TO BE ENTITLED
1-12 AN ACT

1-13 relating to water conservation.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 1.003, Water Code, is amended to read as
1-16 follows:

1-17 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
1-18 state to provide for the conservation and development of the
1-19 state's natural resources, including:

1-20 (1) the control, storage, preservation, and
1-21 distribution of the state's storm and floodwaters and the waters of
1-22 its rivers and streams for irrigation, power, and other useful
1-23 purposes;

1-24 (2) the reclamation and irrigation of the state's
1-25 arid, semiarid, and other land needing irrigation;

1-26 (3) the reclamation and drainage of the state's
1-27 overflowed land and other land needing drainage;

1-28 (4) the conservation and development of its forest,
1-29 water, and hydroelectric power;

1-30 (5) the navigation of the state's inland and coastal
1-31 waters; ~~and~~

1-32 (6) the maintenance of a proper ecological environment
1-33 of the bays and estuaries of Texas and the health of related living
1-34 marine resources; and

1-35 (7) the voluntary stewardship of public and private
1-36 lands to benefit waters of the state.

1-37 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended
1-38 by adding Section 1.004 to read as follows:

1-39 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

1-40 (a) The legislature finds that voluntary land stewardship
1-41 enhances the efficiency and effectiveness of this state's
1-42 watersheds by helping to increase surface water and groundwater
1-43 supplies, resulting in a benefit to the natural resources of this
1-44 state and to the general public. It is therefore the policy of this
1-45 state to encourage voluntary land stewardship as a significant
1-46 water management tool.

1-47 (b) "Land stewardship," as used in this code, is the
1-48 voluntary practice of managing land to conserve or enhance suitable
1-49 landscapes and the ecosystem values of the land. Land stewardship
1-50 includes land and habitat management, wildlife conservation, and
1-51 watershed protection. Land stewardship practices include runoff
1-52 reduction, prescribed burning, managed grazing, brush management,
1-53 erosion management, reseeding with native plant species, riparian
1-54 management and restoration, and spring and creek-bank protection,
1-55 all of which benefit the water resources of this state.

1-56 SECTION 3. Subtitle A, Title 2, Water Code, is amended by
1-57 adding Chapter 10 to read as follows:

1-58 CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

1-59 Sec. 10.001. DEFINITIONS. In this chapter:

1-60 (1) "Best management practices" has the meaning
1-61 assigned by Section 11.002.

1-62 (2) "Board" means the Texas Water Development Board.

2-1 (3) "Commission" means the Texas Commission on
 2-2 Environmental Quality.

2-3 (4) "Council" means the Water Conservation Advisory
 2-4 Council.

2-5 Sec. 10.002. PURPOSE. The council is created to provide the
 2-6 governor, lieutenant governor, speaker of the house of
 2-7 representatives, legislature, board, commission, political
 2-8 subdivisions, and public with the resource of a select council with
 2-9 expertise in water conservation.

2-10 Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is
 2-11 composed of 23 members appointed by the board. The board shall
 2-12 appoint one member to represent each of the following entities or
 2-13 interest groups:

- 2-14 (1) Texas Commission on Environmental Quality;
- 2-15 (2) Department of Agriculture;
- 2-16 (3) Parks and Wildlife Department;
- 2-17 (4) State Soil and Water Conservation Board;
- 2-18 (5) Texas Water Development Board;
- 2-19 (6) regional water planning groups;
- 2-20 (7) federal agencies;
- 2-21 (8) municipalities;
- 2-22 (9) groundwater conservation districts;
- 2-23 (10) river authorities;
- 2-24 (11) environmental groups;
- 2-25 (12) irrigation districts;
- 2-26 (13) institutional water users;
- 2-27 (14) professional organizations focused on water
 2-28 conservation;
- 2-29 (15) higher education;
- 2-30 (16) agricultural groups;
- 2-31 (17) refining and chemical manufacturing;
- 2-32 (18) electric generation;
- 2-33 (19) mining and recovery of minerals;
- 2-34 (20) landscape irrigation and horticulture;
- 2-35 (21) water control and improvement districts;
- 2-36 (22) rural water users; and
- 2-37 (23) municipal utility districts.

2-38 (b) Each entity or interest group described by Subsection
 2-39 (a) may recommend one or more persons to fill the position on the
 2-40 council held by the member who represents that entity or interest
 2-41 group. If one or more persons are recommended for a position on the
 2-42 council, the board shall appoint one of the persons recommended to
 2-43 fill the position.

2-44 Sec. 10.004. TERMS. (a) Members of the council serve
 2-45 staggered terms of six years, with seven or eight members' terms, as
 2-46 applicable, expiring August 31 of each odd-numbered year.

2-47 (b) The board shall fill a vacancy on the council for the
 2-48 unexpired term by appointing a person who has the same
 2-49 qualifications as required under Section 10.003 for the person who
 2-50 previously held the vacated position.

2-51 Sec. 10.005. PRESIDING OFFICER. The council members shall
 2-52 select one member as the presiding officer of the council to serve
 2-53 in that capacity until the person's term as a council member
 2-54 expires.

2-55 Sec. 10.006. COUNCIL STAFF. On request by the council, the
 2-56 board shall provide any necessary staff to assist the council in the
 2-57 performance of its duties.

2-58 Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a)
 2-59 The council may hold public meetings as needed to fulfill its duties
 2-60 under this chapter.

2-61 (b) The council is subject to Chapters 551 and 552,
 2-62 Government Code.

2-63 Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW.
 2-64 Chapter 2110, Government Code, does not apply to the size,
 2-65 composition, or duration of the council.

2-66 Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the
 2-67 council serve without compensation but may be reimbursed by
 2-68 legislative appropriation for actual and necessary expenses
 2-69 related to the performance of council duties.

3-1 (b) Reimbursement under Subsection (a) is subject to the
3-2 approval of the presiding officer of the council.

3-3 Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council
3-4 shall:

3-5 (1) monitor trends in water conservation
3-6 implementation;

3-7 (2) monitor new technologies for possible inclusion by
3-8 the board as best management practices in the best management
3-9 practices guide developed by the water conservation implementation
3-10 task force under Chapter 109, Acts of the 78th Legislature, Regular
3-11 Session, 2003;

3-12 (3) monitor the effectiveness of the statewide water
3-13 conservation public awareness program developed under Section
3-14 16.401 and associated local involvement in implementation of the
3-15 program;

3-16 (4) develop and implement a state water management
3-17 resource library;

3-18 (5) develop and implement a public recognition program
3-19 for water conservation;

3-20 (6) monitor the implementation of water conservation
3-21 strategies by water users included in regional water plans; and

3-22 (7) monitor target and goal guidelines for water
3-23 conservation to be considered by the board and commission.

3-24 Sec. 10.011. REPORT. Not later than December 1 of each
3-25 even-numbered year, the council shall submit to the governor,
3-26 lieutenant governor, and speaker of the house of representatives a
3-27 report on progress made in water conservation in this state.

3-28 Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION
3-29 TRAINING FACILITIES STUDY. (a) The council shall conduct a study
3-30 to evaluate the desirability of requiring the board to:

3-31 (1) designate as certified water conservation
3-32 training facilities entities and programs that provide assistance
3-33 to retail public utilities in developing water conservation plans
3-34 under Section 13.146; and

3-35 (2) give preference to certified water conservation
3-36 training facilities in making loans or grants for water
3-37 conservation training and education activities.

3-38 (b) Not later than December 1, 2008, the council shall
3-39 submit a written report containing the findings of the study and the
3-40 recommendations of the council to the governor, lieutenant
3-41 governor, and speaker of the house of representatives.

3-42 (c) This section expires June 1, 2009.

3-43 SECTION 4. Section 11.002, Water Code, is amended by adding
3-44 Subdivision (15) to read as follows:

3-45 (15) "Best management practices" means those
3-46 voluntary efficiency measures developed by the commission and the
3-47 board that save a quantifiable amount of water, either directly or
3-48 indirectly, and that can be implemented within a specified time
3-49 frame.

3-50 SECTION 5. Section 11.0235(b), Water Code, is amended to
3-51 read as follows:

3-52 (b) Maintaining the biological soundness of the state's
3-53 rivers, lakes, bays, and estuaries is of great importance to the
3-54 public's economic health and general well-being. The legislature
3-55 encourages voluntary water and land stewardship to benefit the
3-56 water in the state, as defined by Section 26.001.

3-57 SECTION 6. Section 11.085(v), Water Code, is amended to
3-58 read as follows:

3-59 (v) The provisions of this section, except Subsection (a),
3-60 do not apply to:

3-61 (1) a proposed transfer which in combination with any
3-62 existing transfers totals less than 3,000 acre-feet of water per
3-63 annum from the same permit, certified filing, or certificate of
3-64 adjudication;

3-65 (2) a request for an emergency transfer of water; or

3-66 (3) ~~la proposed transfer from a basin to its adjoining~~
3-67 ~~coastal basin, or~~

3-68 ~~[(4)]~~ a proposed transfer from a basin to a county or
3-69 municipality or the municipality's retail service area that is

4-1 partially within the basin for use in that part of the county or
4-2 municipality and the municipality's retail service area not within
4-3 the basin.

4-4 SECTION 7. Subchapter E, Chapter 13, Water Code, is amended
4-5 by adding Section 13.146 to read as follows:

4-6 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
4-7 require a retail public utility that provides potable water service
4-8 to 3,300 or more connections to submit to the executive
4-9 administrator of the board a water conservation plan based on
4-10 specific targets and goals developed by the retail public utility
4-11 and using appropriate best management practices, as defined by
4-12 Section 11.002, or other water conservation strategies.

4-13 SECTION 8. Section 15.102(b), Water Code, is amended to
4-14 read as follows:

4-15 (b) The loan fund may also be used by the board to provide:

4-16 (1) grants or loans for projects that include
4-17 supplying water and wastewater services in economically distressed
4-18 areas or nonborder colonias as provided by legislative
4-19 appropriations, this chapter, and board rules, including projects
4-20 involving retail distribution of those services; and

4-21 (2) grants for:

4-22 (A) projects for which federal grant funds are
4-23 placed in the loan fund;

4-24 (B) projects, on specific legislative
4-25 appropriation for those projects; or

4-26 (C) water conservation, desalination, brush
4-27 control, weather modification, regionalization, and projects
4-28 providing regional water quality enhancement services as defined by
4-29 board rule, including regional conveyance systems.

4-30 SECTION 9. Chapter 16, Water Code, is amended by adding
4-31 Subchapter K to read as follows:

4-32 SUBCHAPTER K. WATER CONSERVATION

4-33 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
4-34 PROGRAM. (a) The executive administrator shall develop and
4-35 implement a statewide water conservation public awareness program
4-36 to educate residents of this state about water conservation. The
4-37 program shall take into account the differences in water
4-38 conservation needs of various geographic regions of the state and
4-39 shall be designed to complement and support existing local and
4-40 regional water conservation programs.

4-41 (b) The executive administrator is required to develop and
4-42 implement the program required by Subsection (a) in a state fiscal
4-43 biennium only if the legislature appropriates sufficient money in
4-44 that biennium specifically for that purpose.

4-45 Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each
4-46 entity that is required to submit a water conservation plan to the
4-47 commission under this code shall submit a copy of the plan to the
4-48 executive administrator.

4-49 (b) Each entity that is required to submit a water
4-50 conservation plan to the executive administrator, board, or
4-51 commission under this code shall report annually to the executive
4-52 administrator on the entity's progress in implementing the plan.

4-53 (c) The executive administrator shall review each water
4-54 conservation plan and annual report to determine compliance with
4-55 the minimum requirements established by Section 11.1271 and the
4-56 submission deadlines developed under Subsection (e) of this
4-57 section.

4-58 (d) The board may notify the commission if the board
4-59 determines that an entity has violated this section or a rule
4-60 adopted under this section. Notwithstanding Section 7.051(b), a
4-61 violation of this section or of a rule adopted under this section is
4-62 enforceable in the manner provided by Chapter 7 for a violation of a
4-63 provision of this code within the commission's jurisdiction or of a
4-64 rule adopted by the commission under a provision of this code within
4-65 the commission's jurisdiction.

4-66 (e) The board and commission jointly shall adopt rules:

4-67 (1) identifying the minimum requirements and
4-68 submission deadlines for the annual reports required by Subsection
4-69 (b); and

5-1 (2) providing for the enforcement of this section and
 5-2 rules adopted under this section.

5-3 SECTION 10. Subchapter Z, Chapter 51, Education Code, is
 5-4 amended by adding Section 51.969 to read as follows:

5-5 Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES
 5-6 CURRICULUM. The Texas Higher Education Coordinating Board shall
 5-7 encourage each institution of higher education to develop
 5-8 curriculum and provide related instruction regarding on-site
 5-9 reclaimed system technologies, including rainwater harvesting,
 5-10 condensate collection, or cooling tower blow down.

5-11 SECTION 11. Section 447.004, Government Code, is amended by
 5-12 adding Subsection (c-1) to read as follows:

5-13 (c-1) The procedural standards adopted under this section
 5-14 must require that on-site reclaimed system technologies, including
 5-15 rainwater harvesting, condensate collection, or cooling tower blow
 5-16 down, or a combination of those system technologies, for nonpotable
 5-17 indoor use and landscape watering be incorporated into the design
 5-18 and construction of:

5-19 (1) each new state building with a roof measuring at
 5-20 least 10,000 square feet; and

5-21 (2) any other new state building for which the
 5-22 incorporation of such systems is feasible.

5-23 SECTION 12. Section 341.042, Health and Safety Code, is
 5-24 amended to read as follows:

5-25 Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The
 5-26 commission shall establish recommended standards relating to the
 5-27 domestic use of harvested rainwater, including health and safety
 5-28 standards for treatment and collection methods for harvested
 5-29 rainwater intended for drinking, cooking, or bathing.

5-30 (b) The commission by rule shall provide that if a structure
 5-31 is connected to a public water supply system and has a rainwater
 5-32 harvesting system for indoor use:

5-33 (1) the structure must have appropriate
 5-34 cross-connection safeguards; and

5-35 (2) the rainwater harvesting system may be used only
 5-36 for nonpotable indoor purposes.

5-37 (c) Standards and rules adopted by the commission under this
 5-38 chapter governing public drinking water supply systems do not apply
 5-39 to a person:

5-40 (1) who harvests rainwater for domestic use; and

5-41 (2) whose property is not connected to a public
 5-42 drinking water supply system.

5-43 SECTION 13. Chapter 401, Local Government Code, is amended
 5-44 by adding Section 401.006 to read as follows:

5-45 Sec. 401.006. WATER CONSERVATION BY HOME-RULE
 5-46 MUNICIPALITY. A home-rule municipality may adopt and enforce
 5-47 ordinances requiring water conservation in the municipality and by
 5-48 customers of the municipality's municipally owned water and sewer
 5-49 utility in the extraterritorial jurisdiction of the municipality.

5-50 SECTION 14. Section 1903.053, Occupations Code, is amended
 5-51 to read as follows:

5-52 Sec. 1903.053. STANDARDS. (a) The commission shall adopt
 5-53 by rule and enforce standards governing:

5-54 (1) the connection of irrigation systems to any water
 5-55 supply;

5-56 (2) the design, installation, and operation of
 5-57 irrigation systems;

5-58 (3) water conservation; and

5-59 (4) the duties and responsibilities of licensed
 5-60 irrigators.

5-61 (b) ~~The commission may adopt standards for irrigation that~~
 5-62 ~~include water conservation, irrigation system design and~~
 5-63 ~~installation, and compliance with municipal codes.~~

5-64 ~~[(c)]~~ The commission may not require or prohibit the use of
 5-65 any irrigation system, component part, or equipment of any
 5-66 particular brand or manufacturer.

5-67 (c) In adopting standards under this section, the
 5-68 commission shall consult the council.

5-69 SECTION 15. As soon as practicable on or after the effective

6-1 date of this Act, the Texas Water Development Board shall appoint
6-2 the initial members of the Water Conservation Advisory Council, as
6-3 required by Section 10.003, Water Code, as added by this Act. In
6-4 making the initial appointments, the board shall designate seven
6-5 members to serve terms expiring August 31, 2009, eight members to
6-6 serve terms expiring August 31, 2011, and eight members to serve
6-7 terms expiring August 31, 2013.

6-8 SECTION 16. Section 11.085, Water Code, as amended by this
6-9 Act, applies to a transfer of state water from a basin to its
6-10 adjoining coastal basin that is proposed on or after the effective
6-11 date of this Act. The provisions of Section 11.085, Water Code, as
6-12 amended by this Act, other than Subsection (a) of that section, do
6-13 not apply to a transfer of state water from a basin to its adjoining
6-14 coastal basin that was proposed before the effective date of this
6-15 Act.

6-16 SECTION 17. Section 15.102(b), Water Code, as amended by
6-17 this Act, applies only to an application for financial assistance
6-18 filed with the Texas Water Development Board on or after the
6-19 effective date of this Act. An application for financial assistance
6-20 filed before the effective date of this Act is governed by the law
6-21 in effect on the date the application was filed, and the former law
6-22 is continued in effect for that purpose.

6-23 SECTION 18. Not later than January 1, 2008, the Texas Water
6-24 Development Board and the Texas Commission on Environmental Quality
6-25 jointly shall adopt rules as required by Section 16.402(e), Water
6-26 Code, as added by this Act.

6-27 SECTION 19. Not later than June 1, 2008, the Texas
6-28 Commission on Environmental Quality shall adopt standards as
6-29 required by Section 1903.053, Occupations Code, as amended by this
6-30 Act, to take effect January 1, 2009.

6-31 SECTION 20. (a) Except as provided by Subsection (b) of
6-32 this section, this Act takes effect immediately if it receives a
6-33 vote of two-thirds of all the members elected to each house, as
6-34 provided by Section 39, Article III, Texas Constitution. If this
6-35 Act does not receive the vote necessary for immediate effect, this
6-36 Act takes effect September 1, 2007.

6-37 (b) Section 11 of this Act takes effect September 1, 2009.

6-38

* * * * *