

## **BILL ANALYSIS**

H.B. 2667  
By: Ritter  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Water is a finite resource that requires careful and proactive management. In the state of Texas, this takes on an even greater meaning given recent and anticipated future population growth, particularly in high-density, urban areas and in times of drought. As such, the Plumbing Manufacturers Institute and water conservation groups have committed to proactive water conservation standards and legislation for plumbing fixtures in Texas and other states.

H.B. 2667 clarifies and sets out the national standards of the American Society of Mechanical Engineers and American National Standards Institute by which plumbing fixtures will be produced and tested. The bill establishes a phase-in of High Efficiency Toilets and Urinal models brought into Texas, which will allow manufacturers the time to change their production, at the same time allowing retailers the opportunity to turn over their inventory. The bill creates an exemption for those manufacturers that volunteer to register their products with the United States EPA's WaterSense® Program, which should result in additional water savings. The bill repeals the Texas Commission on Environmental Quality certification process for plumbing fixtures since the plumbing fixtures must meet national certification and testing procedures

### **RULEMAKING AUTHORITY**

It is the Committee's opinion that the bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 372.001, Health and Safety Code, as follows:

Sec. 372.001. DEFINITIONS. Defines "Commercial prerinse spray valve," "Commission," "Plumbing fixture," "Plumbing fixture fitting," "Pressurized flushing device," "Toilet," "Water closet."

SECTION 2. Amends Sections 372.002, Health and Safety Code, by amending Subsections (b), (c) and (f), and adding Subsections (g) and (h), as follows:

Subsection (b) revises the water saving performance standards for plumbing fixtures sold in, distributed in, or imported into Texas by removing the condition that a plumbing fixture must meet either those standards established by the American National Standards Institute or standards specified in statute and tested according to testing procedures adopted by The Texas Commission of Environmental Quality (TCEQ) and removing the requirement that the fixture must meet the performance standard that is more restrictive.

This subsection provides revised performance standards for a sink or lavatory faucet or a faucet aerator; a shower head; a urinal and the associated flush valve; and a toilet.

This subsection specifies water saving performance standards for a urinal and flush valve based and a toilet on whether the fixture is sold, offered for sale, or distributed in Texas before January 1, 2014, or on or after January 1, 2014.

This subsection provides that a drinking water fountain must be self-closing.

Subsection (c) removes an importer as one who can certify a plumbing fixture in the provision requiring the commission to make and maintain a current list of certified plumbing fixtures that meet certain water saving performance standards.

This subsection adds certified test results from a laboratory accredited by the American National Standards Institute verifying that the plumbing fixture meets certain water saving performance standards to the items a manufacturer must supply to the commission to have a plumbing fixture included on the list and removes a provision authorizing the commission to test for accuracy of the certification and requiring removal of inaccurately certified fixtures from the list.

Subsection (f) adds to the list of fixtures exempt from the above described performance standards and certification-requirements: nonwater-supplied urinal and a plumbing fixture that has been certified by the U.S. Environmental Protection Agency under the WaterSense Program.

Subsection (g) specifies water saving performance standards for a urinal and flush valve, including one designed for heavy-duty commercial applications, based on whether the fixture is sold, offered for sale, or distributed in Texas before January 1, 2014, or on or after January 1, 2014.

Subsection (h) specifies water saving performance standards for a toilet, including one that is a certain type of water closet, based on whether the fixture is sold, offered for sale, or distributed in Texas before January 1, 2014, or on or after January 1, 2014.

SECTION 3. Amends Chapter 372, Health and Safety Code, by adding Sections 372.0025, 372.0045, and 372.006, as follows:

Sec. 372.0025. EXCEPTION: ACTION BY MUNICIPALITY OR COUNTY. Provides that the governing body of a municipality or county may by ordinance or order allow the sale in the municipality or county of a urinal or toilet that does not comply with standards applicable to certain fixtures sold, offered for sale, or distributed after January 1, 2014, if the governing body finds that to flush a public sewer system located in the municipality or county in a manner consistent with public health, a greater quantity of water is required because of the configuration of the drainage systems of buildings located in the municipality or county or the public sewer system.

Sec. 372.0045. PHASE-IN OF WATER SAVING PERFORMANCE STANDARDS. Provides a phase-in schedule of water saving performance standards for urinals and toilets and requires a manufacturer that offers urinals or toilets for sale in Texas, not later than January 31 of each year, to notify the commission in writing of the percentage of the models of urinals and of the models of toilets offered for sale by the manufacturer in Texas that meet the requirements. Provides that these provisions expire September 1, 2013.

Sec. 372.006. NONWATER-SUPPLIED URINAL PERFORMANCE STANDARDS. Prohibits a person from selling, offering for sale, or distributing in Texas a nonwater-supplied urinal for use in this state unless the nonwater-supplied urinal meets certain performance, testing, and labeling requirements specified in the above provisions. Requires the manufacturer or importer to submit to the commission certified test results from a laboratory accredited by the American National Standards Institute verifying that the nonwater-supplied urinal conforms to the applicable requirements.

Requires a person who installs a nonwater-supplied urinal to install water distribution and fixture supply piping sized to accommodate a water-supplied urinal to an in-wall point immediately adjacent to the nonwater-supplied urinal location so that the nonwater-supplied urinal can be replaced with a water-supplied urinal if desired by the owner or required by a code enforcement officer. Requires a person who owns a nonwater-supplied urinal to clean and maintain the nonwater-supplied urinal in accordance with the manufacturer's instructions.

SECTION 4. Amends Section 5.701(q), Water Code, by removing Section 372.002(d), Health and Safety Code, from the list of statutes under fees may be collected for deposit to the water resource management account and appropriated and used to protect water resources in Texas.

SECTION 5. Amends Section 13.506 (b), Water Code, by removing a specific gallon requirement of toilets installed.

SECTION 6. Repeals Sections 372.002(d) and (e) and 372.003(a) and (b), Health and Safety Code.

SECTION 7. Provides that the change in law made by Section 372.002, Health and Safety Code, applies only to a plumbing fixture sold, offered for sale, or distributed into this state on or after September 1, 2009. A plumbing fixture sold, offered for sale, or distributed in this state before that date is governed by the law in effect on the date the sale, offer, or distribution occurred, and that law is continued in effect for that purpose.

SECTION 8. Provides that the change in law made by Section 372.006, Health and Safety Code, applies only to a nonwater-supplied urinal sold, offered for sale, distributed, or installed, in this state on or after September 1, 2009. A nonwater-supplied urinal sold, offered for sale, distributed, or installed in this state before that date is governed by the law in effect on the date the sale, offer, distribution, or installation occurred, and that law is continued in effect for that purpose.

SECTION 9. Provides the effective date of this Act.

**EFFECTIVE DATE**

This Act takes effect September 1, 2009.