

BILL ANALYSIS

C.S.H.B. 4299
By: Rose
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Rainwater harvesting is the capture, diversion, and storage of rainwater for a number of different purposes including landscape irrigation, drinking and domestic use, aquifer recharge, and storm water abatement. Its advantages and benefits are many.

The Texas Water Development Board established the Texas Rainwater Harvesting Evaluation Committee pursuant to the enactment of H.B. 2430, 79th Legislature, Regular Session, 2005. In accordance with H.B. 2430, membership of the Texas Rainwater Harvesting Evaluation Committee consists of representatives from the Texas Water Development Board, the Texas Commission on Environmental Quality (TCEQ), the Department of State Health Services, and the Texas section of the American Water Works Association's Conservation and Reuse Division.

H.B. 2430 directed the Texas Rainwater Harvesting Evaluation Committee to evaluate the potential for rainwater harvesting in Texas and to recommend minimum water quality guidelines and standards for potable and nonpotable indoor uses of rainwater, treatment methods for potable and nonpotable indoor uses of rainwater, ways to use rainwater harvesting systems in conjunction with existing municipal water systems, and ways that the state can further promote rainwater harvesting. In addition, H.B. 2430 directed TCEQ to establish recommended standards for the domestic use of harvested rainwater, including health and safety standards. It also directed them to develop standards for collection methods for harvesting rainwater intended for drinking, cooking, and bathing.

The Texas Rainwater Harvesting Evaluation Committee has concluded its evaluation of the potential for rainwater harvesting in Texas, has formulated its recommendations regarding minimum water quality guidelines, standards, and methods of treatment for the safe use of water for indoor purposes, ways in which to incorporate rainwater harvesting with existing public water systems, and the state's role in promoting rainwater harvesting. A portion of those recommendations were effectuated through the enactment of H.B. 4, 80th Legislature, Regular Session, 2007, and other recommendations served as the genesis of this bill.

C.S.H.B. 4299 provides various building standards, incentives, and conservation initiatives by which rainwater harvesting technology is encouraged, promoted, and implemented in both public and private facilities in Texas, including residential, commercial, and industrial buildings.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 4299 amends the Finance Code to authorize financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply.

C.S.H.B. 4299 amends the Government Code to require the procedural standards for energy and water conservation designs to require that rainwater harvesting system technology for nonpotable indoor use and landscape watering be incorporated into the design and construction of each new state building with a roof measuring at least 10,000 square feet that is located in an area of this state in which the average annual rainfall is at least 20 inches and at least 25 percent of the roof area of a building be used for rainwater collection, among other requirements. The bill applies these provisions to a building described by the bill unless certain exceptions apply or the state agency or institution of higher education constructing the building provides the state energy conservation office evidence that the amount of rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

C.S.H.B. 4299 amends the Health and Safety Code to remove, under provisions relating to standards for harvested rainwater that the Texas Commission on Environmental Quality (TCEQ), by rule must provide, the requirement that a structure connected to a public water supply system and having a rainwater harvesting system be for indoor use and removes the requirement that such a rainwater harvesting system may be used only for nonpotable indoor purposes.

C.S.H.B. 4299 amends the Local Government Code to encourage each municipality and county to promote rainwater harvesting at residential, commercial, and industrial facilities through incentives such as the provision at a discount of rain barrels or rebates for water storage facilities. The bill requires each municipality or county that has adopted impervious cover or density restrictions to consider the use in a development of harvested rainwater as an on-site water supply source in determining whether to grant the development a credit against or exemption from the restrictions. The bill requires the Texas Water Development Board to ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly. The bill requires each member of the permitting staff of each county and municipality located wholly or partly in an area designated by TCEQ as a priority groundwater management area and each member of the permitting staff of each county and municipality with a population of more than 100,000 to receive the training at least once every five years. The bill encourages members of the permitting staffs of counties and municipalities not located wholly or partly in an area designated by TCEQ as a priority groundwater management area and members of the permitting staffs of counties and municipalities with a population of 100,000 or less to receive the training. The bill authorizes the board to provide the training by seminars or by videotape or functionally similar and widely available media without cost. The bill prohibits a municipality or county from denying a building permit solely because the facility will implement rainwater harvesting. The bill provides that each school district is encouraged to implement rainwater harvesting at facilities of the district.

C.S.H.B. 4299 amends the Property Code to remove language related to rain barrels, rain harvesting devices, or any other appurtenance from provisions prohibiting certain restrictive covenants. The bill provides that certain provisions relating to restrictive covenants do not require a property owners' association to permit a rain barrel or rainwater harvesting system to be installed in or on property if the property is owned by the property owners' association, owned in common by the members of the property owners' association, or located between the front of the property owner's home and the adjacent street, or the barrel or system is of a color other than the original manufacturer's color or a color consistent with the color scheme of the property owner's home, or displays any language or other content that is not typically displayed by such a barrel or system as it is manufactured.

C.S.H.B. 4299 amends the Water Code to provide that it is the public policy of Texas to provide for the conservation and development of the state's natural resources, including the promotion of rainwater harvesting for potable and nonpotable purposes at public and private facilities in the state, including residential, commercial, and industrial buildings, in addition to other specified

policies that provide for the conservation and development of the state's natural resources.

C.S.H.B. 4299 requires the board, if the 81st Legislature makes an appropriation to the board, to, not later than December 1, 2010, provide a report to the lieutenant governor and the speaker of the house of representatives regarding the projects for which the board has grants, including a description of each project and the amount of the grant provided for each project.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4299 differs from the original by amending the Finance Code to authorize financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply.

C.S.H.B. 4299 removes a provision in the original requiring the Texas Facilities Commission to ensure that a state agency or institution of higher education constructing a building that is subject to the procedural standards complies with the standards. The substitute removes a provision in the original relating to property taxes.

C.S.H.B. 4299 differs from the original by amending the Health and Safety Code to remove, under provisions relating to standards for harvested rainwater that the Texas Commission on Environmental Quality by rule must provide, the condition that if a structure is connected to a public water system and has a rainwater harvesting system, it be for indoor use and that the harvesting system be used only for nonpotable indoor purposes.

C.S.H.B. 4299 differs from the original by requiring the Texas Water Development Board to ensure that the training on rainwater harvesting is available, whereas the original requires the Texas Water Development Board to hold a training seminar. The substitute differs from the original by requiring members of the permitting staffs of certain municipalities and counties to receive the training at least once every five years, whereas the original required such staff to attend the training at least once. The substitute differs from the original by authorizing the board to provide the training by seminar or by videotape or functionally similar and widely available media without cost. The substitute adds a provision not in the original providing that each school district is encouraged to implement rainwater harvesting at facilities of the district.

C.S.H.B. 4299 adds a provision not in the original providing that certain provisions relating to restrictive covenants do not require a property owners' association to permit a rain barrel or rainwater harvesting system to be installed in or on property if the property or the barrel meet certain specifications. The substitute differs from the original by clarifying that Texas public policy promoting rainwater harvesting applies to rainwater that is harvested for potable and nonpotable purposes.

C.S.H.B. 4299 differs from the original by making all of its provisions effective September 1, 2009, whereas the original made most provisions effective September 1, 2009, except for provisions amending the Water Code relating to Texas public policy promoting rainwater harvesting, which were made effective January 1, 2010, contingent on the approval of a constitutional amendment relating to property tax assessment.