

1-1 By: Rose (Senate Sponsor - Averitt) H.B. No. 4299  
1-2 (In the Senate - Received from the House May 15, 2009;  
1-3 May 18, 2009, read first time and referred to Committee on Natural  
1-4 Resources; May 23, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 4299 By: Averitt

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to rainwater harvesting and other water conservation  
1-11 initiatives.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 59, Finance Code, is  
1-14 amended by adding Section 59.012 to read as follows:

1-15 Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED  
1-16 RAINWATER. Financial institutions may consider making loans for  
1-17 developments that will use harvested rainwater as the sole source  
1-18 of water supply.

1-19 SECTION 2. Section 447.004, Government Code, is amended by  
1-20 amending Subsection (c-1) and adding Subsection (c-3) to read as  
1-21 follows:

1-22 (c-1) The procedural standards adopted under this section  
1-23 must require that:

1-24 (1) on-site reclaimed system technologies, including  
1-25 rainwater harvesting, condensate collection, or cooling tower blow  
1-26 down, or a combination of those system technologies, for nonpotable  
1-27 indoor use and landscape watering be incorporated into the design  
1-28 and construction of:

1-29 (A) ~~[(1)]~~ each new state building with a roof  
1-30 measuring at least 10,000 square feet; and

1-31 (B) ~~[(2)]~~ any other new state building for which  
1-32 the incorporation of such systems is feasible;

1-33 (2) rainwater harvesting system technology for  
1-34 nonpotable indoor use and landscape watering be incorporated into  
1-35 the design and construction of each new state building with a roof  
1-36 measuring at least 10,000 square feet that is located in an area of  
1-37 this state in which the average annual rainfall is at least 20  
1-38 inches; and

1-39 (3) at least 25 percent of the roof area of a building  
1-40 described by Subdivision (2) be used for rainwater collection.

1-41 (c-3) The procedural standards required by Subsections  
1-42 (c-1)(2) and (3) apply to a building described by Subsection  
1-43 (c-1)(2) unless Subsection (c-2) applies or the state agency or  
1-44 institution of higher education constructing the building provides  
1-45 the state energy conservation office evidence that the amount of  
1-46 rainwater that will be harvested from one or more existing  
1-47 buildings at the same location is equivalent to the amount of  
1-48 rainwater that could have been harvested from the new building had  
1-49 rainwater harvesting system technology been incorporated into its  
1-50 design and construction.

1-51 SECTION 3. Section 341.042(b), Health and Safety Code, is  
1-52 amended to read as follows:

1-53 (b) The commission by rule shall provide that if a structure  
1-54 is connected to a public water supply system and has a rainwater  
1-55 harvesting system, ~~[for indoor use:~~

1-56 ~~[(1)]~~ the structure must have appropriate  
1-57 cross-connection safeguards ~~[, and~~

1-58 ~~[(2) the rainwater harvesting system may be used only~~  
1-59 ~~for nonpotable indoor purposes].~~

1-60 SECTION 4. Chapter 580, Local Government Code, is amended  
1-61 by adding Section 580.004 to read as follows:

1-62 Sec. 580.004. RAINWATER HARVESTING. (a) Each municipality  
1-63 and county is encouraged to promote rainwater harvesting at

2-1 residential, commercial, and industrial facilities through  
2-2 incentives such as the provision at a discount of rain barrels or  
2-3 rebates for water storage facilities.

2-4 (b) Each municipality or county that has adopted impervious  
2-5 cover or density restrictions shall consider the use in a  
2-6 development of harvested rainwater as an on-site water supply  
2-7 source in determining whether to grant the development a credit  
2-8 against or exemption from the restrictions.

2-9 (c) The Texas Water Development Board shall ensure that  
2-10 training on rainwater harvesting is available for the members of  
2-11 the permitting staffs of municipalities and counties at least  
2-12 quarterly. Members of the permitting staffs of counties and  
2-13 municipalities are encouraged to receive the training. The Texas  
2-14 Water Development Board may provide the training by seminars or by  
2-15 videotape or functionally similar and widely available media  
2-16 without cost.

2-17 (d) A municipality or county may not deny a building permit  
2-18 solely because the facility will implement rainwater harvesting.

2-19 (e) Each school district is encouraged to implement  
2-20 rainwater harvesting at facilities of the district.

2-21 SECTION 5. Section 202.007(d), Property Code, is amended to  
2-22 read as follows:

2-23 (d) This section does not:

2-24 (1) restrict a property owners' association from  
2-25 regulating the requirements, including size, type, shielding, and  
2-26 materials, for or the location of a composting device [~~rain~~  
2-27 ~~barrel, rain harvesting device, or any other appurtenance~~] if the  
2-28 restriction does not prohibit the economic installation of the  
2-29 device [~~or appurtenance~~] on the property owner's property where  
2-30 there is reasonably sufficient area to install the device [~~or~~  
2-31 ~~appurtenance~~];

2-32 (2) require a property owners' association to permit a  
2-33 device [~~or appurtenance~~] described by Subdivision (1) to be  
2-34 installed in or on property:

2-35 (A) owned by the property owners' association;

2-36 (B) owned in common by the members of the  
2-37 property owners' association; or

2-38 (C) in an area other than the fenced yard or patio  
2-39 of a property owner;

2-40 (3) prohibit a property owners' association from  
2-41 regulating the installation of efficient irrigation systems,  
2-42 including establishing visibility limitations for aesthetic  
2-43 purposes;

2-44 (4) prohibit a property owners' association from  
2-45 regulating the installation or use of gravel, rocks, or cacti; [~~or~~]

2-46 (5) restrict a property owners' association from  
2-47 regulating yard and landscape maintenance if the restrictions or  
2-48 requirements do not restrict or prohibit turf or landscaping design  
2-49 that promotes water conservation; or

2-50 (6) require a property owners' association to permit a  
2-51 rain barrel or rainwater harvesting system to be installed in or on  
2-52 property if:

2-53 (A) the property is:

2-54 (i) owned by the property owners'  
2-55 association;

2-56 (ii) owned in common by the members of the  
2-57 property owners' association; or

2-58 (iii) located between the front of the  
2-59 property owner's home and the adjacent street; or

2-60 (B) the barrel or system:

2-61 (i) is of a color other than:

2-62 (a) the original manufacturer's  
2-63 color; or

2-64 (b) a color consistent with the color  
2-65 scheme of the property owner's home; or

2-66 (ii) displays any language or other content  
2-67 that is not typically displayed by such a barrel or system as it is  
2-68 manufactured.

2-69 SECTION 6. Section 1.003, Water Code, is amended to read as

3-1 follows:  
3-2 Sec. 1.003. PUBLIC POLICY. It is the public policy of the  
3-3 state to provide for the conservation and development of the  
3-4 state's natural resources, including:

3-5 (1) the control, storage, preservation, and  
3-6 distribution of the state's storm and floodwaters and the waters of  
3-7 its rivers and streams for irrigation, power, and other useful  
3-8 purposes;

3-9 (2) the reclamation and irrigation of the state's  
3-10 arid, semiarid, and other land needing irrigation;

3-11 (3) the reclamation and drainage of the state's  
3-12 overflowed land and other land needing drainage;

3-13 (4) the conservation and development of its forest,  
3-14 water, and hydroelectric power;

3-15 (5) the navigation of the state's inland and coastal  
3-16 waters;

3-17 (6) the maintenance of a proper ecological environment  
3-18 of the bays and estuaries of Texas and the health of related living  
3-19 marine resources; ~~and~~

3-20 (7) the voluntary stewardship of public and private  
3-21 lands to benefit waters of the state; and

3-22 (8) the promotion of rainwater harvesting for potable  
3-23 and nonpotable purposes at public and private facilities in this  
3-24 state, including residential, commercial, and industrial  
3-25 buildings.

3-26 SECTION 7. Section 16.0121, Water Code, is amended by  
3-27 amending Subsection (b) and adding Subsection (g) to read as  
3-28 follows:

3-29 (b) Except as provided by Subsection (g) [Every five years],  
3-30 a retail public utility providing potable water shall perform and  
3-31 file with the board, every five years, a water audit computing the  
3-32 utility's most recent annual system water loss.

3-33 (g) A retail public utility shall perform and file with the  
3-34 board a water loss audit annually if the utility is receiving any  
3-35 financial assistance from the board.

3-36 SECTION 8. If the 81st Legislature makes an appropriation  
3-37 to the Texas Water Development Board to provide matching grants to  
3-38 political subdivisions of this state for rainwater harvesting  
3-39 demonstration projects, the board shall, not later than December 1,  
3-40 2010, provide a report to the lieutenant governor and the speaker of  
3-41 the house of representatives regarding the projects for which the  
3-42 board has provided grants, including:

3-43 (1) a description of each project; and  
3-44 (2) the amount of the grant provided for each project.

3-45 SECTION 9. This Act does not make an appropriation. A  
3-46 provision of this Act that creates a new governmental program,  
3-47 creates a new entitlement, or imposes a new duty on a governmental  
3-48 entity is not mandatory during a fiscal period for which the  
3-49 legislature has not made a specific appropriation to implement the  
3-50 provision.

3-51 SECTION 10. This Act takes effect September 1, 2009.

3-52 \* \* \* \* \*