

BILL ANALYSIS

C.S.H.B. 1319
By: Laubenberg
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Lack of uniformity in the way utilities and cities measure their use of water in gallons per capita per day (GPCD) can create false impressions about how cities and regions compare in terms of their conservation efforts. Some utilities report total GPCD, which includes residential and industrial use, while other utilities report GPCD for such uses separately. Interested parties note that, in order for GPCD measurements to be effective and to make a true comparison of water usage and future water needs, these measurements need to be uniform to ensure that Texas has accurate planning and conservation in place to meet the long-term water needs of its citizens.

C.S.H.B. 1319 proposes to remedy this situation by making changes relating to the calculation and reporting of water usage by certain municipalities and water utilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality and the Texas Water Development Board in SECTION 2 of this bill.

ANALYSIS

SECTION 1. Amends Section 16.053 (e), Water Code, as follows:

Subsection (e) Requires in the regional water plan that each regional water planning group submit to the Texas Water Development Board (TWDB), information on projected water use and conservation in the regional water planning area and information on the implementation of state and regional water plan projects, including water conservation strategies, necessary to meet the state's projected water demands. Makes other nonsubstantive, conforming changes.

SECTION 2. Amends Subchapter K, Chapter 16, Water Code, by adding Sections 16.403 and 16.404 as follows:

Sec. 16.403. WATER USE REPORTING. Subsection (a) Requires the TWDB and the Texas Commission on Environmental Quality (TCEQ), in consultation with the Water Conservation Advisory Council (WCAC) must develop a uniform, consistent methodology and guidance for calculating water use and conservation to be used by a municipality or water utility in developing water conservation plans and preparing reports required under the Water Code. Requires the methodology and guidance, at a minimum, must include a method of calculating water use for each sector of water users served by a municipality or water utility; a method of classifying water users within sectors; a method of calculating water use in the residential sector that includes both single-family and multifamily residences, in gallons per capita per day; a method of calculating water use in the industrial, agricultural, commercial, and institutional sectors that is not dependent on a municipality's population or the number of customers served by a water utility; and guidelines on the use of service populations by a municipality or water utility in developing a per-capita-based method of calculation, including guidance on the use of permanent and temporary populations in making calculations.

Subsection (b) Requires the TWDB or the TCEQ, as appropriate, to use the methodology and guidance in evaluating certain water conservation plans, programs of water conservation, surveys, or other reports relating to water conservation submitted to the TWDB or the TCEQ under the following:

- water rights provisions relating to additional requirements regarding water conservation plans;
- water rates and services provisions relating to water conservation plans;
- water loan assistance program provisions relating to approval of an application;
- financial assistance for water pollution control provisions relating to approval of an application;
- water infrastructure fund provisions relating to approval of applications;
- rural water assistance fund provisions relating to financial assistance;
- studies, investigations, and surveys provisions relating to a survey of entities using groundwater and surface water for municipal, industrial, power generation, or mining purposes conducted by the executive administrator of the TWDB;
- water conservation provisions relating to a water conservation plan review;
- assistance to political subdivisions for water supply projects provisions relating to approval of an application;
- financial assistance for water quality enhancement purposes provisions relating to approval of an application;
- revenue bond program provisions relating to approval of an application; or
- assistance to economically distressed areas for water supply and sewer service projects provisions relating to an application for financial assistance.

Subsection (c) Requires the TWDB, in consultation with the TCEQ and the WCAC, to develop a data collection and reporting program for municipalities and water utilities with more than 3,300 connections.

Subsection (d) Requires the TWDB, not later than January 1 of each odd-numbered year, to submit to the legislature a report that includes the most recent data relating to statewide water usage in the residential, industrial, agricultural, commercial, and institutional sectors and relating to the data collection and reporting program.

Section 16.404. RULES AND STANDARDS. Subsection (a) Requires that the TCEQ and the TWDB, as appropriate, must adopt rules and standards as necessary to implement statutory provisions relating to water conservation, as amended by the bill's provisions. Requires that the adopted rules, at a minimum, must require a municipality or water utility to report the most detailed level of water use data currently available to the municipality or water utility.

Subsection (b) Prohibits the TCEQ or the TWDB from adopting a rule that requires a municipality or water utility to report water use data that is more detailed than the billing system of the municipality or water utility is capable of producing.

Subsection (c) Provides that the TCEQ or the TWDB may require that a billing system purchased by a municipality or water utility after September 1, 2011, be capable of reporting detailed water use data in a manner prescribed by the TCEQ or the TWDB.

SECTION 3. Subsection (a) Requires that the TWDB and the TCEQ, in consultation with the WCAC, not later than January 1, 2013, must develop the water use and conservation calculation methodology and guidance and the data collection and reporting program under this Act.

(b) Requires that the TWDB must submit to the legislature, not later than January 1, 2015, the first report required by the Act.

SECTION 4. Provides the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1319 differs from the original by requiring that a regional water planning group must include information to TWDB on projected water use and conservation in the regional water planning area and the implementation of state and regional water plan projects, including water conservation strategies, necessary to meet the state's projected water demands to the TWDB, whereas the original had no such provision.

C.S.H.B. 1319 differs from the original by adding a provision requiring that the TWDB and the TCEQ, in consultation with the WCAC, must develop a uniform, consistent methodology and guidance for calculating water use and conservation, whereas the original requires the development of a uniform system for calculating water use and conservation. The substitute differs from the original by requiring the methodology and guidance to include a method of calculating water use in the commercial and institutional sectors that is not dependent on a municipality's population or the number of customers served by a water utility, whereas the original requires the system to include a method of calculating water use in the commercial and institutional sectors that is dependent on a municipality's population or the number of customers served by a water utility.

C.S.H.B. 1319 differs from the original by adding provisions not in the original, whereas the original had no such provisions, expanding the list of certain water conservation plans, programs of water conservation, surveys, or other reports relating to water conservation for which the TWDB or the TCEQ is required to use the methodology and guidance in evaluating to include such plans, programs, surveys, or other reports submitted under the following:

- financial assistance for water pollution control provisions relating to approval of an application;
- water infrastructure fund provisions relating to approval of applications;
- water conservation provisions relating to a water conservation plan review;
- financial assistance for water quality enhancement purposes provisions relating to approval of an application; or
- assistance to economically distressed areas for water supply and sewer service projects provisions relating to an application for financial assistance.

C.S.H.B. 1319 differs from the original by specifying such a plan, program, survey, or other report under assistance to political subdivisions for water supply projects provisions relating to approval of an application, whereas the original specifies a particular provision in those provisions relating to a program of water conservation for the more efficient use of water that incorporates certain practices, techniques, or technology and that the TWDB determines will meet reasonable anticipated local needs and conditions. The substitute differs from the original by specifying such a plan, program, survey, or other report under revenue bond program provisions relating to approval of an application, whereas the original specifies a particular provision in those provisions relating to a program of water conservation for the more efficient use of water that incorporates certain practices, techniques, or technology and that the TWDB determines will meet reasonably anticipated local needs and conditions.

C.S.H.B. 1319 differs from the original by requiring the TWDB, in consultation with the TCEQ and the WCAC, to develop a data collection and reporting program for municipalities and water utilities with more than 3,300 connections, whereas the original had no such provision. The substitute differs from the original by specifying that the TWDB's report required to be submitted to the legislature include the most recent data relating to statewide water usage in the industrial and agricultural sectors and relating to the data collection and reporting program, whereas the original had no such provision.

C.S.H.B. 1319 differs from the original by requiring that the TCEQ and the TWDB must to adopt rules and standards as necessary to implement provisions relating to water conservation and establishing for such rules a requirement relating to the level of detail in reporting by a municipality or water utility and a prohibition relating to report detail as it relates to the municipality's or utility's billing system, whereas the original had no such provisions. The substitute differs from the original by authorizing the TCEQ or the TWDB to require that a billing system purchased by a municipality or water utility after September 1, 2011, be capable of reporting detailed water use data in a manner prescribed by the TCEQ or the TWDB, whereas the original had no such provision.