

BILL ANALYSIS

Senate Research Center
82R23582 SMH-F

H.B. 3391
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The use of harvested rainwater is typically restricted to nonpotable purposes such as landscape irrigation, laundry, and toilet flushing. Interested parties note that, with Texas facing limited water resources, it is critical that both potable and nonpotable harvested rainwater be recognized as a desirable and sustainable water resource. The parties see a need to promote the use of rainwater harvesting for both potable and nonpotable purposes at public and private facilities in Texas in order to acknowledge the viability, sustainability, and conservation of this natural resource. H.B. 3391 seeks to address these concerns.

H.B. 3391 amends current law relating to rainwater harvesting and other water conservation initiatives.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Environmental Quality (TCEQ) is modified in SECTION 3 (Section 341.042, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to TCEQ in SECTION 3 (Section 341.042, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 59, Finance Code, by adding Section 59.012, as follows:

Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED RAINWATER. Authorizes financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply.

SECTION 2. Amends Section 447.004, Government Code, by amending Subsection (c-1) and adding Subsection (c-3), as follows:

(c-1) Requires that the procedural standards adopted under this section require that:

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

(A) each new state building with a roof measuring at least 10,000 square feet; and

(B) any other new state building for which the incorporation of such systems is feasible; and

(2) rainwater harvesting system technology for potable and nonpotable indoor use and landscape watering be incorporated into the design and construction of each new state building with a roof measuring at least 50,000 square feet that is

located in an area of this state in which the average annual rainfall is at least 20 inches.

Makes nonsubstantive changes.

(c-3) Provides that the procedural standards required by Subsection (c-1)(2) apply to a building described by that subdivision unless Subsection (c-2) (relating to requiring that the procedural standards adopted under this section require that on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated into the design and construction of certain buildings) applies 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.

SECTION 3. Amends Section 341.042, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(b) Requires the Texas Commission on Environmental Quality (TCEQ) by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system, the structure must have appropriate cross-connection safeguards, rather than, for indoor use, the structure must have appropriate cross-connection safeguards and the rainwater harvesting system may be used only for nonpotable indoor purposes.

(b-1) Requires TCEQ to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system. Requires that the rules contain criteria that are sufficient to ensure that:

(1) safe sanitary drinking water standards are met; and

(2) harvested rainwater does not come into communication with a public water supply system's drinking water at a location off of the property on which the rainwater harvesting system is located.

(b-2) Requires a person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes to give written notice of that intention to the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connecting the rainwater harvesting system to the public water supply system.

(b-3) Prohibits a municipality or the owner or operator of a public water supply system from being held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system that is connected to a public water supply system and is used for potable purposes if the municipality or the public water supply system is in compliance with the sanitary standards for drinking water adopted by TCEQ and applicable to the municipality or public water supply system.

SECTION 4. Amends Chapter 580, Local Government Code, by adding Section 580.004, as follows:

Sec. 580.004. RAINWATER HARVESTING. (a) Provides that each municipality and county is encouraged 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.

(b) Requires the Texas Water Development Board (TWDB) to ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly. 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 under Section 35.008 (Procedures for Designation of Priority Groundwater Management Area; Consideration of Creation of New District or Addition of Land in Priority Groundwater Management Area to Existing District; Commission Order), Water Code, whose work relates directly to permits involving rainwater harvesting and each member of the permitting staff of each county and municipality with a population of more than 100,000 whose work relates directly to permits involving rainwater harvesting to receive appropriate training regarding rainwater harvesting standards and their relation to permitting at least once every five years. Provides that 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 under Section 35.008, Water Code, whose work relates directly to permits involving rainwater harvesting and members of the permitting staffs of counties and municipalities with a population of 100,000 or less whose work relates directly to permits involving rainwater harvesting are encouraged to receive the training. Authorizes TWDB to provide appropriate training by seminars or by videotape or functionally similar and widely available media without cost.

(c) Prohibits a municipality or county from denying a building permit solely because the facility will implement rainwater harvesting. Authorizes a municipality or county, however, to require that a rainwater harvesting system comply with the minimum state standards established for such a system.

(d) Provides that each school district is encouraged to implement rainwater harvesting at facilities of the district.

SECTION 5. Amends Section 5.008(b), Property Code, to set forth the required language of the notice.

SECTION 6. Amends Section 202.007(d), Property Code, as follows:

(d) Provides that this section does not:

(1) restrict a property owners' association from regulating the requirements, including size, type, shielding, and materials, for or the location of a composting device, rather than a composting device, rain barrel, rain harvesting device, or any other appurtenance, if the restriction does not prohibit the economic installation of the device, rather than of the device or appurtenance, on the property owner's property where there is reasonably sufficient area to install the device;

(2) require a property owners' association to permit a device described by Subdivision (1) to be installed in or on certain property;

(3)-(5) Makes no changes to these subdivisions;

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

(A) 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 an adjoining or adjacent street; or

(B) the barrel or system is of a color other than 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; or

(7) restrict a property owners' association from regulating the size, type, and shielding of, and the materials used in the construction of, a rain barrel, rainwater harvesting device, or other appurtenance that is located on the side of a house or at any other location that is visible from a street, another lot, or a common area if:

(A) the restriction does not prohibit the economic installation of the device or appurtenance on the property owner's property; and

(B) there is a reasonably sufficient area on the property owner's property in which to install the device or appurtenance.

Makes conforming changes.

SECTION 7. Amends Section 1.003, Water Code, to provide that it is the public policy of the state 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 this state, including residential, commercial, and industrial buildings.

SECTION 8. Requires TWDB, if the 82nd Legislature makes an appropriation to TWDB to provide matching grants to political subdivisions of this state for rainwater harvesting demonstration projects, not later than December 1, 2012, to provide a report to the lieutenant governor and the speaker of the house of representatives regarding the projects for which the board has provided grants, including:

(1) a description of each project; and

(2) the amount of the grant provided for each project.

SECTION 9. Makes application of Section 5.008(b), Property Code, as amended by this Act, prospective.

SECTION 10. Effective date: September, 2011.