

BILL ANALYSIS

S.B. 181
By: Shapiro
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The most common metric used to measure water usage is gallons per capita per day (GPCD). GPCD is a planning tool that is used to project the future water needs of each municipality, as well as to implement and track water conservation efforts. There is no consistent formula by which GPCD is calculated, which can adversely impact a municipality's planning ability and conservation efforts.

In order for GPCD measures to be effective and to make a true comparison of water usage and future needs possible, these measurements and methods of calculation need to be uniform. Ensuring that the State of Texas has an accurate planning and conservation measure in place is critical to meeting the long-term water needs of all Texans.

S.B. 181 addresses this problem by requiring the Texas Water Development Board (TWDB), in consultation with the Texas Commission on Environmental Quality (TCEQ) and the Water Conservation Advisory Council (WCAC), to develop a standard formula for calculating and reporting municipal water use in GPCD. The bill establishes minimum criteria to guide the formulation of a GPCD metric, and requires TWDB, TCEQ, and WCAC to develop a data collection and reporting program to assist municipalities and water utilities in using the GPCD formula.

S.B. 181 amends current law relating to the calculation and reporting of water usage by municipalities and water utilities for state water planning and other purposes.

[**Note:** While the statutory reference in Chapter 16, Water Code, is to the Texas Natural Resource Conservation Commission (TNRCC), the bill's provisions affect the Texas Commission on Environmental Quality (TCEQ), as the successor agency to TNRCC.]

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 (Section 16.404, Water Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 16.053(e), Water Code, to add to the required contents of a regional water plan that must be submitted to the Texas Water Development Board (TWDB) by each water planning group a requirement to include information 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.

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. (a) Provides that the legislature finds that:

(1) tracking water use over time and evaluating the effects of water conservation programs or strategies are vital components of planning for

and managing the state's water resources to estimate and meet future water demand requirements;

(2) gallons per capita per day, the common metric used by municipalities and water utilities for water supply planning and the calculation of water use, is not an accurate measure of water use or water conservation, because a uniform, consistent methodology for the calculation of gallons per capita per day has not been established;

(3) using a single gallons per capita per day metric to compare the water use of municipalities and water utilities does not produce a reliable comparison, because water use is dependent on several variables, including differences in the amount of water used for commercial and industrial sector activities, power production, permanent versus temporary service populations, and agricultural sector production;

(4) if valid water use comparisons and evaluations of a municipality's or water utility's water conservation programs are to be made over time for statewide resource management and water supply planning and permitting purposes, the methodology used to calculate gallons per capita per day must be uniform for all water suppliers;

(5) a municipality's or water utility's industrial and agricultural sector's gallons per capita per day figures are not an accurate measure of actual water use and conservation by entities within those sectors because water use in the industrial and agricultural sectors is not population-dependent and therefore not accurately calculated using a population-based metric; and

(6) a sector-based water use metric, adjusted for variables in water use by municipalities and water utilities, is necessary in order to provide an accurate comparison of water use and water conservation among municipalities and water utilities.

(b) Requires TWDB and the Texas Commission on Environmental Quality (TCEQ), in consultation with the Water Conservation Advisory Council (council), to 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 this code. Requires that the methodology and guidance, at a minimum, include:

(1) a method of calculating total water use by a municipality or water utility, including water billed and nonrevenue water used, and a method of calculating water use for each sector of water users served by a municipality or water utility;

(2) a method of calculating total water use by a municipality or water utility in gallons per capita per day;

(3) a method of classifying water users within sectors;

(4) a method of calculating water use in the residential sector that includes both single-family and multifamily residences, in gallons per capita per day;

(5) 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

(6) 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.

(c) Requires TWDB or TCEQ, as appropriate, to use the methodology and guidance developed under Subsection (b) in evaluating a water conservation plan, program of water conservation, survey, or other report relating to water conservation submitted to TWDB or TCEQ under Sections 11.1271 (Additional Requirements; Water Conservation Plans), 13.146 (Water Conservation Plan), 15.106 (Approval of Application), 15.607 (Approval of Application), 15.975 (Approval of Applications), 15.995 (Financial Assistance), 16.012(m) (relating to surveys of certain entities), 16.402 (Water Conservation Plan Review), 17.125 (Approval of Application), 17.277 (Approval of Application), 17.857 (Approval of Application), or 17.927 (Application for Financial Assistance).

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

(e) Requires 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:

(1) statewide water usage in the residential, industrial, agricultural, commercial, and institutional sectors; and

(2) the data collection and reporting program developed under Subsection (d).

Sec. 16.404. RULES AND STANDARDS. Requires TCEQ and TWDB, as appropriate, to adopt rules and standards as necessary to implement this subchapter. Requires that the rules adopted under this subchapter, at a minimum, require an entity to report the most detailed level of water use data currently available to the entity. Prohibits TCEQ from adopting a rule that requires an entity to report water use data that is more detailed than the entity's billing system is capable of producing. Authorizes the rules to require that billing systems purchased after September 1, 2011, be capable of reporting detailed water use data described in this subchapter.

SECTION 3. (a) Requires TWDB and the TCEQ, in consultation with the council, not later than January 1, 2013, to develop the water use and conservation calculation methodology and guidance and the data collection and reporting program required by Sections 16.403(b) and (d), Water Code, as added by this Act.

(b) Requires TWDB, not later than January 1, 2015, to submit to the legislature the first report required by Section 16.403(e), Water Code, as added by this Act.

SECTION 4. Provides for 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.