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(Laubenberg, Creighton, Branch)

S.B. No. 181

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the calculation and reporting of water usage by  
3 municipalities and water utilities for state water planning and  
4 other purposes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subsection (e), Section 16.053, Water Code, is  
7 amended to read as follows:

8 (e) Each regional water planning group shall submit to the  
9 development board a regional water plan that:

10 (1) is consistent with the guidance principles for the  
11 state water plan adopted by the development board under Section  
12 16.051(d);

13 (2) provides information based on data provided or  
14 approved by the development board in a format consistent with the  
15 guidelines provided by the development board under Subsection (d);

16 (3) identifies:

17 (A) each source of water supply in the regional  
18 water planning area, including information supplied by the  
19 executive administrator on the amount of managed available  
20 groundwater in accordance with the guidelines provided by the  
21 development board under Subsections (d) and (f);

22 (B) factors specific to each source of water  
23 supply to be considered in determining whether to initiate a  
24 drought response;

1 (C) actions to be taken as part of the response;  
2 and

3 (D) existing major water infrastructure  
4 facilities that may be used for interconnections in the event of an  
5 emergency shortage of water;

6 (4) has specific provisions for water management  
7 strategies to be used during a drought of record;

8 (5) includes but is not limited to consideration of  
9 the following:

10 (A) any existing water or drought planning  
11 efforts addressing all or a portion of the region;

12 (B) approved groundwater conservation district  
13 management plans and other plans submitted under Section 16.054;

14 (C) all potentially feasible water management  
15 strategies, including but not limited to improved conservation,  
16 reuse, and management of existing water supplies, conjunctive use,  
17 acquisition of available existing water supplies, and development  
18 of new water supplies;

19 (D) protection of existing water rights in the  
20 region;

21 (E) opportunities for and the benefits of  
22 developing regional water supply facilities or providing regional  
23 management of water supply facilities;

24 (F) appropriate provision for environmental  
25 water needs and for the effect of upstream development on the bays,  
26 estuaries, and arms of the Gulf of Mexico and the effect of plans on  
27 navigation;

1 (G) provisions in Section 11.085(k)(1) if  
2 interbasin transfers are contemplated;

3 (H) voluntary transfer of water within the region  
4 using, but not limited to, regional water banks, sales, leases,  
5 options, subordination agreements, and financing agreements; and

6 (I) emergency transfer of water under Section  
7 11.139, including information on the part of each permit, certified  
8 filing, or certificate of adjudication for nonmunicipal use in the  
9 region that may be transferred without causing unreasonable damage  
10 to the property of the nonmunicipal water rights holder;

11 (6) identifies river and stream segments of unique  
12 ecological value and sites of unique value for the construction of  
13 reservoirs that the regional water planning group recommends for  
14 protection under Section 16.051;

15 (7) assesses the impact of the plan on unique river and  
16 stream segments identified in Subdivision (6) if the regional water  
17 planning group or the legislature determines that a site of unique  
18 ecological value exists; ~~and~~

19 (8) describes the impact of proposed water projects on  
20 water quality; and

21 (9) includes information on:

22 (A) projected water use and conservation in the  
23 regional water planning area; and

24 (B) the implementation of state and regional  
25 water plan projects, including water conservation strategies,  
26 necessary to meet the state's projected water demands.

27 SECTION 2. Subchapter K, Chapter 16, Water Code, is amended

1 by adding Sections 16.403 and 16.404 to read as follows:

2 Sec. 16.403. WATER USE REPORTING. (a) The legislature  
3 finds that:

4 (1) tracking water use over time and evaluating the  
5 effects of water conservation programs or strategies are vital  
6 components of planning for and managing the state's water resources  
7 to estimate and meet future water demand requirements;

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

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

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

27 (5) a municipality's or water utility's industrial and

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

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

10 (b) The board and the commission, in consultation with the  
11 Water Conservation Advisory Council, shall develop a uniform,  
12 consistent methodology and guidance for calculating water use and  
13 conservation to be used by a municipality or water utility in  
14 developing water conservation plans and preparing reports required  
15 under this code. At a minimum, the methodology and guidance must  
16 include:

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

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

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

26 (4) a method of calculating water use in the  
27 residential sector that includes both single-family and

1 multifamily residences, in gallons per capita per day;

2 (5) a method of calculating water use in the  
3 industrial, agricultural, commercial, and institutional sectors  
4 that is not dependent on a municipality's population or the number  
5 of customers served by a water utility; and

6 (6) guidelines on the use of service populations by a  
7 municipality or water utility in developing a per-capita-based  
8 method of calculation, including guidance on the use of permanent  
9 and temporary populations in making calculations.

10 (c) The board or the commission, as appropriate, shall use  
11 the methodology and guidance developed under Subsection (b) in  
12 evaluating a water conservation plan, program of water  
13 conservation, survey, or other report relating to water  
14 conservation submitted to the board or the commission under:

15 (1) Section 11.1271;

16 (2) Section 13.146;

17 (3) Section 15.106;

18 (4) Section 15.607;

19 (5) Section 15.975;

20 (6) Section 15.995;

21 (7) Section 16.012(m);

22 (8) Section 16.402;

23 (9) Section 17.125;

24 (10) Section 17.277;

25 (11) Section 17.857; or

26 (12) Section 17.927.

27 (d) The board, in consultation with the commission and the

1 Water Conservation Advisory Council, shall develop a data  
2 collection and reporting program for municipalities and water  
3 utilities with more than 3,300 connections.

4 (e) Not later than January 1 of each odd-numbered year, the  
5 board shall submit to the legislature a report that includes the  
6 most recent data relating to:

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

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

12 Sec. 16.404. RULES AND STANDARDS. The commission and the  
13 board, as appropriate, shall adopt rules and standards as necessary  
14 to implement this subchapter. At a minimum, the rules adopted under  
15 this subchapter must require an entity to report the most detailed  
16 level of water use data currently available to the entity. The  
17 commission may not adopt a rule that requires an entity to report  
18 water use data that is more detailed than the entity's billing  
19 system is capable of producing. The rules may require that billing  
20 systems purchased after September 1, 2011, be capable of reporting  
21 detailed water use data described in this subchapter.

22 SECTION 3. (a) Not later than January 1, 2013, the Texas  
23 Water Development Board and the Texas Commission on Environmental  
24 Quality, in consultation with the Water Conservation Advisory  
25 Council, shall develop the water use and conservation calculation  
26 methodology and guidance and the data collection and reporting  
27 program required by Subsections (b) and (d), Section 16.403, Water

1 Code, as added by this Act.

2 (b) Not later than January 1, 2015, the Texas Water  
3 Development Board shall submit to the legislature the first report  
4 required by Subsection (e), Section 16.403, Water Code, as added by  
5 this Act.

6 SECTION 4. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2011.