

1-1 By: Shapiro, Watson, Seliger S.B. No. 181
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Natural Resources;
1-4 March 17, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; March 17, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 181 By: Estes

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

1-10 relating to the calculation and reporting of water usage by
1-11 municipalities and water utilities for state water planning and
1-12 other purposes.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (e), Section 16.053, Water Code, is
1-15 amended to read as follows:

1-16 (e) Each regional water planning group shall submit to the
1-17 development board a regional water plan that:

1-18 (1) is consistent with the guidance principles for the
1-19 state water plan adopted by the development board under Section
1-20 16.051(d);

1-21 (2) provides information based on data provided or
1-22 approved by the development board in a format consistent with the
1-23 guidelines provided by the development board under Subsection (d);

1-24 (3) identifies:

1-25 (A) each source of water supply in the regional
1-26 water planning area, including information supplied by the
1-27 executive administrator on the amount of managed available
1-28 groundwater in accordance with the guidelines provided by the
1-29 development board under Subsections (d) and (f);

1-30 (B) factors specific to each source of water
1-31 supply to be considered in determining whether to initiate a
1-32 drought response;

1-33 (C) actions to be taken as part of the response;
1-34 and

1-35 (D) existing major water infrastructure
1-36 facilities that may be used for interconnections in the event of an
1-37 emergency shortage of water;

1-38 (4) has specific provisions for water management
1-39 strategies to be used during a drought of record;

1-40 (5) includes but is not limited to consideration of
1-41 the following:

1-42 (A) any existing water or drought planning
1-43 efforts addressing all or a portion of the region;

1-44 (B) approved groundwater conservation district
1-45 management plans and other plans submitted under Section 16.054;

1-46 (C) all potentially feasible water management
1-47 strategies, including but not limited to improved conservation,
1-48 reuse, and management of existing water supplies, conjunctive use,
1-49 acquisition of available existing water supplies, and development
1-50 of new water supplies;

1-51 (D) protection of existing water rights in the
1-52 region;

1-53 (E) opportunities for and the benefits of
1-54 developing regional water supply facilities or providing regional
1-55 management of water supply facilities;

1-56 (F) appropriate provision for environmental
1-57 water needs and for the effect of upstream development on the bays,
1-58 estuaries, and arms of the Gulf of Mexico and the effect of plans on
1-59 navigation;

1-60 (G) provisions in Section 11.085(k)(1) if
1-61 interbasin transfers are contemplated;

1-62 (H) voluntary transfer of water within the region
1-63 using, but not limited to, regional water banks, sales, leases,

2-1 options, subordination agreements, and financing agreements; and
2-2 (I) emergency transfer of water under Section
2-3 11.139, including information on the part of each permit, certified
2-4 filing, or certificate of adjudication for nonmunicipal use in the
2-5 region that may be transferred without causing unreasonable damage
2-6 to the property of the nonmunicipal water rights holder;

2-7 (6) identifies river and stream segments of unique
2-8 ecological value and sites of unique value for the construction of
2-9 reservoirs that the regional water planning group recommends for
2-10 protection under Section 16.051;

2-11 (7) assesses the impact of the plan on unique river and
2-12 stream segments identified in Subdivision (6) if the regional water
2-13 planning group or the legislature determines that a site of unique
2-14 ecological value exists; ~~and~~

2-15 (8) describes the impact of proposed water projects on
2-16 water quality; and

2-17 (9) includes information on:

2-18 (A) projected water use and conservation in the
2-19 regional water planning area; and

2-20 (B) the implementation of state and regional
2-21 water plan projects, including water conservation strategies,
2-22 necessary to meet the state's projected water demands.

2-23 SECTION 2. Subchapter K, Chapter 16, Water Code, is amended
2-24 by adding Sections 16.403 and 16.404 to read as follows:

2-25 Sec. 16.403. WATER USE REPORTING. (a) The legislature
2-26 finds that:

2-27 (1) tracking water use over time and evaluating the
2-28 effects of water conservation programs or strategies are vital
2-29 components of planning for and managing the state's water resources
2-30 to estimate and meet future water demand requirements;

2-31 (2) gallons per capita per day, the common metric used
2-32 by municipalities and water utilities for water supply planning and
2-33 the calculation of water use, is not an accurate measure of water
2-34 use or water conservation because a uniform, consistent methodology
2-35 for the calculation of gallons per capita per day has not been
2-36 established;

2-37 (3) using a single gallons per capita per day metric to
2-38 compare the water use of municipalities and water utilities does
2-39 not produce a reliable comparison because water use is dependent on
2-40 several variables, including differences in the amount of water
2-41 used for commercial and industrial sector activities, power
2-42 production, permanent versus temporary service populations, and
2-43 agricultural sector production;

2-44 (4) if valid water use comparisons and evaluations of
2-45 a municipality's or water utility's water conservation programs are
2-46 to be made over time for statewide resource management and water
2-47 supply planning and permitting purposes, the methodology used to
2-48 calculate gallons per capita per day must be uniform for all water
2-49 suppliers;

2-50 (5) a municipality's or water utility's industrial and
2-51 agricultural sector's gallons per capita per day figures are not an
2-52 accurate measure of actual water use and conservation by entities
2-53 within those sectors because water use in the industrial and
2-54 agricultural sectors is not population-dependent and therefore not
2-55 accurately calculated using a population-based metric; and

2-56 (6) a sector-based water use metric, adjusted for
2-57 variables in water use by municipalities and water utilities, is
2-58 necessary in order to provide an accurate comparison of water use
2-59 and water conservation among municipalities and water utilities.

2-60 (b) The board and the commission, in consultation with the
2-61 Water Conservation Advisory Council, shall develop a uniform,
2-62 consistent methodology and guidance for calculating water use and
2-63 conservation to be used by a municipality or water utility in
2-64 developing water conservation plans and preparing reports required
2-65 under this code. At a minimum, the methodology and guidance must
2-66 include:

2-67 (1) a method of calculating water use for each sector
2-68 of water users served by a municipality or water utility;

2-69 (2) a method of classifying water users within

3-1 sectors;
 3-2 (3) a method of calculating water use in the
 3-3 residential sector that includes both single-family and
 3-4 multifamily residences, in gallons per capita per day;
 3-5 (4) a method of calculating water use in the
 3-6 industrial, agricultural, commercial, and institutional sectors
 3-7 that is not dependent on a municipality's population or the number
 3-8 of customers served by a water utility; and
 3-9 (5) guidelines on the use of service populations by a
 3-10 municipality or water utility in developing a per-capita-based
 3-11 method of calculation, including guidance on the use of permanent
 3-12 and temporary populations in making calculations.

3-13 (c) The board or the commission, as appropriate, shall use
 3-14 the methodology and guidance developed under Subsection (b) in
 3-15 evaluating a water conservation plan, program of water
 3-16 conservation, survey, or other report relating to water
 3-17 conservation submitted to the board or the commission under:

- 3-18 (1) Section 11.1271;
- 3-19 (2) Section 13.146;
- 3-20 (3) Section 15.106;
- 3-21 (4) Section 15.607;
- 3-22 (5) Section 15.975;
- 3-23 (6) Section 15.995;
- 3-24 (7) Section 16.012(m);
- 3-25 (8) Section 16.402;
- 3-26 (9) Section 17.125;
- 3-27 (10) Section 17.277;
- 3-28 (11) Section 17.857; or
- 3-29 (12) Section 17.927.

3-30 (d) The board, in consultation with the commission and the
 3-31 Water Conservation Advisory Council, shall develop a data
 3-32 collection and reporting program for municipalities and water
 3-33 utilities with more than 3,300 connections.

3-34 (e) Not later than January 1 of each odd-numbered year, the
 3-35 board shall submit to the legislature a report that includes the
 3-36 most recent data relating to:

- 3-37 (1) statewide water usage in the residential,
 3-38 industrial, agricultural, commercial, and institutional sectors;
 3-39 and
- 3-40 (2) the data collection and reporting program
 3-41 developed under Subsection (d).

3-42 Sec. 16.404. RULES AND STANDARDS. The commission and the
 3-43 board, as appropriate, shall adopt rules and standards as necessary
 3-44 to implement this subchapter. At a minimum, the rules adopted under
 3-45 this subchapter must require an entity to report the most detailed
 3-46 level of water use data currently available to the entity. The
 3-47 commission may not adopt a rule that requires an entity to report
 3-48 water use data that is more detailed than the entity's billing
 3-49 system is capable of producing. The rules may require that billing
 3-50 systems purchased after September 1, 2011, be capable of reporting
 3-51 detailed water use data described in this subchapter.

3-52 SECTION 3. (a) Not later than January 1, 2013, the Texas
 3-53 Water Development Board and the Texas Commission on Environmental
 3-54 Quality, in consultation with the Water Conservation Advisory
 3-55 Council, shall develop the water use and conservation calculation
 3-56 methodology and guidance and the data collection and reporting
 3-57 program required by Subsections (b) and (d), Section 16.403, Water
 3-58 Code, as added by this Act.

3-59 (b) Not later than January 1, 2015, the Texas Water
 3-60 Development Board shall submit to the legislature the first report
 3-61 required by Subsection (e), Section 16.403, Water Code, as added by
 3-62 this Act.

3-63 SECTION 4. This Act takes effect immediately if it receives
 3-64 a vote of two-thirds of all the members elected to each house, as
 3-65 provided by Section 39, Article III, Texas Constitution. If this
 3-66 Act does not receive the vote necessary for immediate effect, this
 3-67 Act takes effect September 1, 2011.

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