

BILL ANALYSIS

Senate Research Center
80R20391 ACP-D

H.B. 4
By: Puente (Averitt)
Natural Resources
5/18/2007
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4 sets forth legislative policy statements regarding the value of land stewardship for conservation purposes. This bill directs the Texas Water Development Board (TWDB) to implement a statewide conservation public awareness program to educate Texas residents about water conservation; creates a 23-member Water Conservation Advisory Council to monitor the development and implementation of water conservation strategies; requires retail public water utilities that provide potable water service to 3,300 or more connections to submit water conservation plans to the Texas Commission on Environmental Quality (TCEQ) and TWDB and requires these utilities to conduct annual progress updates; and authorizes TWDB's water assistance fund to be used for grants for water conservation.

Furthermore, this bill requires the Texas Higher Education Coordinating Board to encourage the development of curriculum regarding on-site reclaimed system technologies; incorporates on-site reclaimed system technologies into the design and construction of certain new state buildings; and requires TCEQ to establish certain rules regarding rainwater harvesting systems.

This bill also requires TCEQ to adopt rules and enforce standards governing the design, installation, and operation of irrigation systems, governing water conservation, and governing the duties and responsibilities of licensed irrigators. Finally, this bill authorizes a home-rule municipality to adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally-owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] in SECTION 9 (Section 16.402, Water Code) and SECTION 12 (Section 341.042, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 8 (Section 15.102, Water Code) of this bill.

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 9 (Section 16.402, Water Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 14 (Section 1903.053, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

[While some of the statutory references in this bill are to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Section 1.003, Water Code, as follows:

Sec. 1.003. PUBLIC POLICY. Provides that it is the public policy of the state to provide for the conservation and development of the state's natural resources, including the voluntary stewardship of public and private lands to benefit waters of the state.

SECTION 2. Amends Subchapter A, Chapter 1, Water Code, by adding Section 1.004, as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. (a) Sets forth the legislative finding that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. Provides that it is the policy of this state to encourage voluntary land stewardship as a significant water management tool.

(b) Defines "land stewardship." Sets forth the practices that constitute land stewardship under this code.

SECTION 3. Amends Subtitle A, Title 2, Water Code, by adding Chapter 10, as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. Defines "best management practices," "board," "commission," and "council."

Sec. 10.002. PURPOSE. Creates the Water Conservation Advisory Council (council) to provide certain elected officials, governmental entities, and the public with the resource of a select council with expertise in water conservation.

Sec. 10.003. CREATION AND MEMBERSHIP. (a) Provides that the council is composed of 23 members appointed by the Texas Water Development Board (TWDB). Requires TWDB to appoint one member from certain entities or interest groups to represent those entities and groups.

(b) Authorizes each entity or interest group described by Subsection (a) to recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. Requires TWDB to appoint one of the persons recommended to fill the position if one or more persons are recommended for a position on the council.

Sec. 10.004. TERMS. (a) Provides that members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) Requires TWDB to fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. PRESIDING OFFICER. Requires the council members to select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. Requires TWDB to provide any necessary staff to assist the council in the performance of its duties on request by the council.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) Authorizes the council to hold public meetings as needed to fulfill its duties under this chapter.

(b) Provides that the council is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS. (a) Provides that members of the council serve without compensation but authorizes members of the council to be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Provides that reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. Sets forth required powers and duties of the council.

Sec. 10.011. REPORT. Requires the council to submit to certain elected officials a report on progress made in water conservation in this state not later than December 1 of each even-numbered year.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) Requires the council to conduct a study to evaluate the desirability of requiring TWDB to designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans (plans) under Section 13.146 (Water Conservation Plan) and to give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.

(b) Requires the council to submit a written report containing the findings of the study and the recommendations of the council to certain elected officials not later than December 1, 2008.

(c) Provides that this section expires June 1, 2009.

SECTION 4. Amends Section 11.002, Water Code, by adding Subdivision (15), to define "best management practices."

SECTION 5. Amends Section 11.0235(b), Water Code, to provide that the legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001 (Definitions).

SECTION 6. Amends Section 11.085(v), Water Code, to delete existing text providing an exception to the provisions of this section (Interbasin Transfers), except Subsection (a), for a proposed transfer from a basin to its adjoining coastal basin.

SECTION 7. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.146, as follows:

Sec. 13.146. WATER CONSERVATION PLAN. Requires the Texas Natural Resource Conservation Commission (TNRCC) to require a retail public utility that provides potable water services to 3,300 or more connections to submit to the executive administrator of TWDB (executive administrator) a plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002 (Definitions), or other water conservation strategies.

SECTION 8. Amends Section 15.102(b), Water Code, to authorize the water loan assistance fund to be used by TWDB to provide grants for water conservation as defined by TWDB rule.

SECTION 9. Amends Chapter 16, Water Code, by adding Subchapter K, as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. (a) Requires the executive administrator to develop and implement a statewide water conservation public awareness program (program) to educate residents of

this state about water conservation. Requires the program to take into account the differences in water conservation needs of various geographic regions of the state and be designed to complement and support existing local and regional water conservation programs.

(b) Requires the executive administrator to develop and implement the program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Requires each entity that is required to submit a plan to TNRCC under this code to submit a copy of the plan to the executive administrator.

(b) Requires each entity that is required to submit a plan to the executive administrator, TWDB, or TNRCC under this code to report annually to the executive administrator on the entity's progress in implementing the plan.

(c) Requires the executive administrator to review each plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 (Additional Requirements: Water Conservation Plans) and the submission deadlines developed under Subsection (e) of this section.

(d) Authorizes TWDB to notify TNRCC if TWDB determines that an entity has violated this section or a rule adopted under this section. Provides that a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 (Enforcement) for a violation of a provision of this code within TNRCC's jurisdiction or of a rule adopted by TNRCC under a provision of this code within TNRCC's jurisdiction.

(e) Requires TWDB and TNRCC to jointly adopt rules identifying the minimum requirements and submission deadlines for the annual reports required by Subsection (b) and providing for the enforcement of this section and rules adopted under this section.

SECTION 10. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.969, as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. Requires the Texas Higher Education Coordinating Board to encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including certain system technologies.

SECTION 11. Amends Section 447.004, Government Code, by adding Subsection (c-1), to require the procedural standards adopted under this section to require that on-site reclaimed systems technologies, including certain system technologies or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated in the design and construction of each new state building with a roof measuring at least 10,000 square feet and any other new state building for which the incorporation of such systems is feasible.

SECTION 12. Amends Section 341.042, Health and Safety Code, as follows:

Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) Creates this subsection from existing text.

(b) Requires TNRCC by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use the structure is required to have appropriate cross-connection safeguards and the rainwater harvesting system may be used only for nonpotable indoor purposes.

(c) Provides that standards and rules adopted by TNRCC under this chapter governing public drinking water supply systems do not apply to certain persons.

SECTION 13. Amends Chapter 401, Local Government Code, by adding Section 401.006, as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. Authorizes a home-rule municipality to adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 14. Amends Section 1903.053, Occupations Code, as follows:

Sec. 1903.053. STANDARDS. (a) Requires the Texas Commission on Environmental Quality (TCEQ) to adopt by rule and enforce standards governing the connection of irrigation systems to any water supply, governing the design, installation, and operation of irrigation systems, governing water conservation, and governing the duties and responsibilities of licensed irrigators.

(b) Redesignated from existing subsection (c). Deletes existing text authorizing TCEQ to adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.

(c) Requires TCEQ to consult the Irrigator Advisory Council in adopting standards under this section.

SECTION 15. Requires TWDB to appoint the initial members of the council, as required by Section 10.003, Water Code, as soon as practicable on or after the effective date of this Act. Requires TWDB, in making the initial appointments, to designate seven members to serve terms expiring August 31, 2009, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 16. Makes application of Section 11.085, Water Code, as amended by this Act, prospective.

SECTION 17. Makes application of Section 15.102(b), Water Code, as amended by this Act, prospective.

SECTION 18. Requires TWDB and TCEQ to jointly adopt rules as required by Section 16.402(e), Water Code, as added by this Act, not later than January 1, 2008.

SECTION 19. Requires TCEQ to adopt standards as required by Section 1903.053, Occupations Code, as amended by this Act, not later than June 1, 2008, to take effect January 1, 2009.

SECTION 20. (a) Effective date: upon passage or September 1, 2007, except as provided by Subsection (b).

(b) Effective date of SECTION 11: September 1, 2009.

SUMMARY OF COMMITTEE CHANGES

Committee Amendment

Amends H.B. 4 (Engrossed Version), by striking SECTIONS 6 (regarding an exception to Section 11.085 (Interbasin Transfers), Water Code) and 16 (regarding a prospective clause related to SECTION 6) (page 7, line 18, though page 8, line 6, and page 13, lines 14-21, respectively) and renumbering the remaining SECTIONS of the bill accordingly.