

By: Puente

H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

relating to water conservation.

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

SECTION 1. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private

1 lands to benefit waters of the state.

2 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended
3 by adding Section 1.004 to read as follows:

4 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

5 (a) The legislature finds that voluntary land stewardship
6 enhances the efficiency and effectiveness of this state's
7 watersheds by helping to increase surface water and groundwater
8 supplies, resulting in a benefit to the natural resources of this
9 state and to the general public. It is therefore the policy of this
10 state to encourage voluntary land stewardship as a significant
11 water management tool.

12 (b) "Land stewardship," as used in this code, is the
13 voluntary practice of managing land to conserve or enhance suitable
14 landscapes and the ecosystem values of the land. Land stewardship
15 includes land and habitat management, wildlife conservation, and
16 watershed protection. Land stewardship practices include runoff
17 reduction, prescribed burning, managed grazing, brush management,
18 erosion management, reseeding with native plant species, riparian
19 management and restoration, and spring and creek-bank protection,
20 all of which benefit the water resources of this state.

21 SECTION 3. Subtitle A, Title 2, Water Code, is amended by
22 adding Chapter 10 to read as follows:

23 CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

24 Sec. 10.001. DEFINITIONS. In this chapter:

25 (1) "Best management practices" has the meaning
26 assigned by Section 11.002.

27 (2) "Board" means the Texas Water Development Board.

1 (3) "Commission" means the Texas Commission on
2 Environmental Quality.

3 (4) "Council" means the Water Conservation Advisory
4 Council.

5 Sec. 10.002. PURPOSE. The council is created to provide the
6 governor, lieutenant governor, speaker of the house of
7 representatives, legislature, board, commission, political
8 subdivisions, and public with the resource of a select council with
9 expertise in water conservation.

10 Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is
11 composed of 23 members appointed by the board. The board shall
12 appoint one member to represent each of the following entities or
13 interest groups:

14 (1) Texas Commission on Environmental Quality;

15 (2) Department of Agriculture;

16 (3) Parks and Wildlife Department;

17 (4) State Soil and Water Conservation Board;

18 (5) Texas Water Development Board;

19 (6) regional water planning groups;

20 (7) federal agencies;

21 (8) municipalities;

22 (9) groundwater conservation districts;

23 (10) river authorities;

24 (11) environmental groups;

25 (12) irrigation districts;

26 (13) institutional water users;

27 (14) professional organizations focused on water

1 conservation;

2 (15) higher education;

3 (16) agricultural groups;

4 (17) refining and chemical manufacturing;

5 (18) electric generation;

6 (19) mining and recovery of minerals;

7 (20) landscape irrigation and horticulture;

8 (21) water control and improvement districts;

9 (22) rural water users; and

10 (23) municipal utility districts.

11 (b) Each entity or interest group described by Subsection
12 (a) may recommend one or more persons to fill the position on the
13 council held by the member who represents that entity or interest
14 group. If one or more persons are recommended for a position on the
15 council, the board shall appoint one of the persons recommended to
16 fill the position.

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

20 (b) The board shall fill a vacancy on the council for the
21 unexpired term by appointing a person who has the same
22 qualifications as required under Section 10.003 for the person who
23 previously held the vacated position.

24 Sec. 10.005. PRESIDING OFFICER. The council members shall
25 select one member as the presiding officer of the council to serve
26 in that capacity until the person's term as a council member
27 expires.

1 Sec. 10.006. COUNCIL STAFF. On request by the council, the
2 board shall provide any necessary staff to assist the council in the
3 performance of its duties.

4 Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a)
5 The council may hold public meetings as needed to fulfill its duties
6 under this chapter.

7 (b) The council is subject to Chapters 551 and 552,
8 Government Code.

9 Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW.
10 Chapter 2110, Government Code, does not apply to the size,
11 composition, or duration of the council.

12 Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the
13 council serve without compensation but may be reimbursed by
14 legislative appropriation for actual and necessary expenses
15 related to the performance of council duties.

16 (b) Reimbursement under Subsection (a) is subject to the
17 approval of the presiding officer of the council.

18 Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council
19 shall:

20 (1) monitor trends in water conservation
21 implementation;

22 (2) monitor new technologies for possible inclusion by
23 the board as best management practices in the best management
24 practices guide developed by the water conservation implementation
25 task force under Chapter 109, Acts of the 78th Legislature, Regular
26 Session, 2003;

27 (3) monitor the effectiveness of the statewide water

1 conservation public awareness program developed under Section
2 16.401 and associated local involvement in implementation of the
3 program;

4 (4) develop and implement a state water management
5 resource library;

6 (5) develop and implement a public recognition program
7 for water conservation;

8 (6) monitor the implementation of water conservation
9 strategies by water users included in regional water plans; and

10 (7) monitor target and goal guidelines for water
11 conservation to be considered by the board and commission.

12 Sec. 10.011. REPORT. Not later than December 1 of each
13 even-numbered year, the council shall submit to the governor,
14 lieutenant governor, and speaker of the house of representatives a
15 report on progress made in water conservation in this state.

16 Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION
17 TRAINING FACILITIES STUDY. (a) The council shall conduct a study
18 to evaluate the desirability of requiring the board to:

19 (1) designate as certified water conservation
20 training facilities entities and programs that provide assistance
21 to retail public utilities in developing water conservation plans
22 under Section 13.146; and

23 (2) give preference to certified water conservation
24 training facilities in making loans or grants for water
25 conservation training and education activities.

26 (b) Not later than December 1, 2008, the council shall
27 submit a written report containing the findings of the study and the

1 recommendations of the council to the governor, lieutenant
2 governor, and speaker of the house of representatives.

3 (c) This section expires June 1, 2009.

4 SECTION 4. Section 11.002, Water Code, is amended by adding
5 Subdivision (15) to read as follows:

6 (15) "Best management practices" means those
7 voluntary efficiency measures developed by the commission and the
8 board that save a quantifiable amount of water, either directly or
9 indirectly, and that can be implemented within a specified time
10 frame.

11 SECTION 5. Section 11.0235(b), Water Code, is amended to
12 read as follows:

13 (b) Maintaining the biological soundness of the state's
14 rivers, lakes, bays, and estuaries is of great importance to the
15 public's economic health and general well-being. The legislature
16 encourages voluntary water and land stewardship to benefit the
17 water in the state, as defined by Section 26.001.

18 SECTION 6. Section 11.085(v), Water Code, is amended to
19 read as follows:

20 (v) The provisions of this section, except Subsection (a),
21 do not apply to:

22 (1) a proposed transfer which in combination with any
23 existing transfers totals less than 3,000 acre-feet of water per
24 annum from the same permit, certified filing, or certificate of
25 adjudication;

26 (2) a request for an emergency transfer of water; or

27 (3) ~~a proposed transfer from a basin to its adjoining~~

1 ~~coastal basin, or~~

2 ~~[(4)]~~ a proposed transfer from a basin to a county or
3 municipality or the municipality's retail service area that is
4 partially within the basin for use in that part of the county or
5 municipality and the municipality's retail service area not within
6 the basin.

7 SECTION 7. Subchapter E, Chapter 13, Water Code, is amended
8 by adding Section 13.146 to read as follows:

9 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
10 require a retail public utility that provides potable water service
11 to 3,300 or more connections to submit to the executive
12 administrator of the board a water conservation plan based on
13 specific targets and goals developed by the retail public utility
14 and using appropriate best management practices, as defined by
15 Section 11.002, or other water conservation strategies.

16 SECTION 8. Section 15.102(b), Water Code, is amended to
17 read as follows:

18 (b) The loan fund may also be used by the board to provide:

19 (1) grants or loans for projects that include
20 supplying water and wastewater services in economically distressed
21 areas or nonborder colonias as provided by legislative
22 appropriations, this chapter, and board rules, including projects
23 involving retail distribution of those services; and

24 (2) grants for:

25 (A) projects for which federal grant funds are
26 placed in the loan fund;

27 (B) projects, on specific legislative

1 appropriation for those projects; or

2 (C) water conservation, desalination, brush
3 control, weather modification, regionalization, and projects
4 providing regional water quality enhancement services as defined by
5 board rule, including regional conveyance systems.

6 SECTION 9. Chapter 16, Water Code, is amended by adding
7 Subchapter K to read as follows:

8 SUBCHAPTER K. WATER CONSERVATION

9 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
10 PROGRAM. (a) The executive administrator shall develop and
11 implement a statewide water conservation public awareness program
12 to educate residents of this state about water conservation. The
13 program shall take into account the differences in water
14 conservation needs of various geographic regions of the state and
15 shall be designed to complement and support existing local and
16 regional water conservation programs.

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

21 Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each
22 entity that is required to submit a water conservation plan to the
23 commission under this code shall submit a copy of the plan to the
24 executive administrator.

25 (b) Each entity that is required to submit a water
26 conservation plan to the executive administrator, board, or
27 commission under this code shall report annually to the executive

1 administrator on the entity's progress in implementing the plan.

2 (c) The executive administrator shall review each water
3 conservation plan and annual report to determine compliance with
4 the minimum requirements established by Section 11.1271 and the
5 submission deadlines developed under Subsection (e) of this
6 section.

7 (d) The board may notify the commission if the board
8 determines that an entity has violated this section or a rule
9 adopted under this section. Notwithstanding Section 7.051(b), a
10 violation of this section or of a rule adopted under this section is
11 enforceable in the manner provided by Chapter 7 for a violation of a
12 provision of this code within the commission's jurisdiction or of a
13 rule adopted by the commission under a provision of this code within
14 the commission's jurisdiction.

15 (e) The board and commission jointly shall adopt rules:

16 (1) identifying the minimum requirements and
17 submission deadlines for the annual reports required by Subsection
18 (b); and

19 (2) providing for the enforcement of this section and
20 rules adopted under this section.

21 SECTION 10. Subchapter Z, Chapter 51, Education Code, is
22 amended by adding Section 51.969 to read as follows:

23 Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES
24 CURRICULUM. The Texas Higher Education Coordinating Board shall
25 encourage each institution of higher education to develop
26 curriculum and provide related instruction regarding on-site
27 reclaimed system technologies, including rainwater harvesting,

1 condensate collection, or cooling tower blow down.

2 SECTION 11. Section 447.004, Government Code, is amended by
3 adding Subsection (c-1) to read as follows:

4 (c-1) The procedural standards adopted under this section
5 must require that on-site reclaimed system technologies, including
6 rainwater harvesting, condensate collection, or cooling tower blow
7 down, or a combination of those system technologies, for nonpotable
8 indoor use and landscape watering be incorporated into the design
9 and construction of:

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

12 (2) any other new state building for which the
13 incorporation of such systems is feasible.

14 SECTION 12. Section 341.042, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The
17 commission shall establish recommended standards relating to the
18 domestic use of harvested rainwater, including health and safety
19 standards for treatment and collection methods for harvested
20 rainwater intended for drinking, cooking, or bathing.

21 (b) The commission by rule shall provide that if a structure
22 is connected to a public water supply system and has a rainwater
23 harvesting system for indoor use:

24 (1) the structure must have appropriate
25 cross-connection safeguards; and

26 (2) the rainwater harvesting system may be used only
27 for nonpotable indoor purposes.

1 (c) Standards and rules adopted by the commission under this
2 chapter governing public drinking water supply systems do not apply
3 to a person:

4 (1) who harvests rainwater for domestic use; and

5 (2) whose property is not connected to a public
6 drinking water supply system.

7 SECTION 13. Chapter 401, Local Government Code, is amended
8 by adding Section 401.006 to read as follows:

9 Sec. 401.006. WATER CONSERVATION BY HOME-RULE
10 MUNICIPALITY. A home-rule municipality may adopt and enforce
11 ordinances requiring water conservation in the municipality and by
12 customers of the municipality's municipally owned water and sewer
13 utility in the extraterritorial jurisdiction of the municipality.

14 SECTION 14. Section 1903.053, Occupations Code, is amended
15 to read as follows:

16 Sec. 1903.053. STANDARDS. (a) The commission shall adopt
17 by rule and enforce standards governing:

18 (1) the connection of irrigation systems to any water
19 supply;

20 (2) the design, installation, and operation of
21 irrigation systems;

22 (3) water conservation; and

23 (4) the duties and responsibilities of licensed
24 irrigators.

25 (b) ~~[The commission may adopt standards for irrigation that~~
26 ~~include water conservation, irrigation system design and~~
27 ~~installation, and compliance with municipal codes.~~

1 ~~[(c)]~~ The commission may not require or prohibit the use of
2 any irrigation system, component part, or equipment of any
3 particular brand or manufacturer.

4 (c) In adopting standards under this section, the
5 commission shall consult the council.

6 SECTION 15. As soon as practicable on or after the effective
7 date of this Act, the Texas Water Development Board shall appoint
8 the initial members of the Water Conservation Advisory Council, as
9 required by Section 10.003, Water Code, as added by this Act. In
10 making the initial appointments, the board shall designate seven
11 members to serve terms expiring August 31, 2009, eight members to
12 serve terms expiring August 31, 2011, and eight members to serve
13 terms expiring August 31, 2013.

14 SECTION 16. Section 11.085, Water Code, as amended by this
15 Act, applies to a transfer of state water from a basin to its
16 adjoining coastal basin that is proposed on or after the effective
17 date of this Act. The provisions of Section 11.085, Water Code, as
18 amended by this Act, other than Subsection (a) of that section, do
19 not apply to a transfer of state water from a basin to its adjoining
20 coastal basin that was proposed before the effective date of this
21 Act.

22 SECTION 17. Section 15.102(b), Water Code, as amended by
23 this Act, applies only to an application for financial assistance
24 filed with the Texas Water Development Board on or after the
25 effective date of this Act. An application for financial assistance
26 filed before the effective date of this Act is governed by the law
27 in effect on the date the application was filed, and the former law

1 is continued in effect for that purpose.

2 SECTION 18. Not later than January 1, 2008, the Texas Water
3 Development Board and the Texas Commission on Environmental Quality
4 jointly shall adopt rules as required by Section 16.402(e), Water
5 Code, as added by this Act.

6 SECTION 19. Not later than June 1, 2008, the Texas
7 Commission on Environmental Quality shall adopt standards as
8 required by Section 1903.053, Occupations Code, as amended by this
9 Act, to take effect January 1, 2009.

10 SECTION 20. (a) Except as provided by Subsection (b) of
11 this section, this Act takes effect immediately if it receives a
12 vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2007.

16 (b) Section 11 of this Act takes effect September 1, 2009.