

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4299
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rainwater harvesting is the capture, diversion, and storage of rainwater for a number of different purposes including landscape irrigation, drinking and domestic use, aquifer recharge, and storm water abatement. Its advantages and benefits are many.

The Texas Water Development Board established the Texas Rainwater Harvesting Evaluation Committee (committee) pursuant to the enactment of H.B. 2430, 79th Legislature, Regular Session, 2005. In accordance with H.B. 2430, membership of the committee consists of representatives from the Texas Water Development Board, the Texas Commission on Environmental Quality (TCEQ), the Department of State Health Services, and the Texas section of the American Water Works Association's Conservation and Reuse Division.

H.B. 2430 directed the committee to evaluate the potential for rainwater harvesting in Texas and to recommend minimum water quality guidelines and standards for potable and nonpotable indoor uses of rainwater, treatment methods for potable and nonpotable indoor uses of rainwater, ways to use rainwater harvesting systems in conjunction with existing municipal water systems, and ways that the state can further promote rainwater harvesting. In addition, H.B. 2430 directed TCEQ to establish recommended standards for the domestic use of harvested rainwater, including health and safety standards. It also directed them to develop standards for collection methods for harvesting rainwater intended for drinking, cooking, and bathing.

The committee has concluded its evaluation of the potential for rainwater harvesting in Texas, has formulated its recommendations regarding minimum water quality guidelines, standards, and methods of treatment for the safe use of water for indoor purposes, ways in which to incorporate rainwater harvesting with existing public water systems, and the state's role in promoting rainwater harvesting. A portion of those recommendations were effectuated through the enactment of H.B. 4, 80th Legislature, Regular Session, 2007, and other recommendations served as the genesis of this bill.

This legislation provides various building standards, incentives, and conservation initiatives by which rainwater harvesting technology is encouraged, promoted, and implemented in both public and private facilities in Texas, including residential, commercial, and industrial buildings.

C.S.H.B. 4299 amends current law relating to rainwater harvesting and other water conservation initiatives.

RULEMAKING AUTHORITY

Rulemaking authority is previously granted to the Texas Commission on Environmental Quality is modified in SECTION 3 (Section 341.042, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 59, Finance Code, by adding Section 59.012, as follows:

Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED RAINWATER. Authorizes financial institutions to consider making loans for developments that will use harvested rainwater as the sole source of water supply.

SECTION 2. Amends Section 447.004, Government Code, by amending Subsection (c-1) and adding Subsection (c-3), as follows:

(c-1) Requires the procedural standards adopted under this section to require that:

- (1) Creates this subdivision from existing text. Makes nonsubstantive changes;
- (2) rainwater harvesting system technology for nonpotable indoor use and landscape watering be incorporated into the design and construction of each new state building with a roof measuring at least 10,000 square feet that is located in an area of this state in which the average annual rainfall is at least 20 inches; and
- (3) at least 25 percent of the roof area of a building described by Subdivision (2) be used for rainwater collection.

(c-3) Provides that the procedural standards required by Subsections (c-1)(2) and (3) apply to a building described by Subsection (c-1)(2) unless Subsection (c-2) (relating to certain procedural standards that do not apply to certain buildings) applies or the state agency or institution of higher education constructing the building provides the state energy conservation office evidence that the amount of rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

SECTION 3. Amends Section 341.042(b), Health and Safety Code, to require the Texas Commission on Environmental Quality (TCEQ) by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system, the structure must have appropriate cross-connection safeguards. Deletes existing text requiring TCEQ 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 must have appropriate cross-connection safeguards and the rainwater harvesting system is authorized to be used only for nonpotable indoor purposes.

SECTION 4. Amends Chapter 580, Local Government Code, by adding Section 580.004, as follows:

Sec. 580.004. RAINWATER HARVESTING. (a) Provides that each municipality and county is encouraged to promote rainwater harvesting at residential, commercial, and industrial facilities through incentives such as the provision at a discount of rain barrels or rebates for water storage facilities.

(b) Requires each municipality or county that has adopted impervious cover or density restrictions to consider the use in a development of harvested rainwater as an on-site water supply source in determining whether to grant the development a credit against or exemption from the restrictions.

(c) Requires the Texas Water Development Board (TWDB) to ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly. Provides that members of the permitting staffs of counties and municipalities are encouraged to receive the training. Authorizes TWDB to provide the training by seminars or by videotape or functionally similar and widely available media without cost.

(d) Prohibits a municipality or county from denying a building permit solely because the facility will implement rainwater harvesting.

(e) Provides that each school district is encouraged to implement rainwater harvesting at facilities of the district.

SECTION 5. Amends Section 202.007(d), Property Code, as follows:

(d) Provides that this section does not:

(1) restrict a property owners' association from regulating the requirements, including size, type, shielding, and materials, for or the location of a composting device, rather than a composting device, rain barrel, rain harvesting device, or any other appurtenance, if the restriction does not prohibit the economic installation of the device, rather than the device or appurtenance, on the property owner's property where there is reasonably sufficient area to install the device, rather than the device or appurtenance;

(2) require a property owners' association to permit a device, rather than a device or appurtenance, described by Subdivision (1) to be installed in or on certain property;

(3) Makes no change to this subdivision;

(4)-(5) Makes nonsubstantive changes; or

(6) require a property owners' association to permit a rain barrel or rain harvesting system to be installed in or on property if the property is owned by the property owners' association; owned in common by the members of the property owners' association; or located between the front of the property owner's home and the adjacent street; or the barrel or system is of a color other than the original manufacturer's color or a color consistent with the color scheme of the property owner's home; or displays any language or other content that is not typically displayed by such a barrel or system as it is manufactured.

SECTION 6. 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 promotion of rainwater harvesting for potable and nonpotable purposes at public and private facilities in this state, including residential, commercial, and industrial buildings. Makes a nonsubstantive change.

SECTION 7. Amends Section 16.0121, Water Code, by amending Subsection (b) and adding Subsection (g), as follows:

(b) Requires a retail public utility providing potable water, except as provided by Subsection (g), to perform and file with TWDB, every five years, a water audit computing the utility's most recent annual system water loss.

(g) Requires a retail public utility to perform and file with TWDB a water loss audit annually if the utility is receiving any financial assistance from TWDB.

SECTION 8. Requires TWDB, if the 81st Legislature makes an appropriation to TWDB to provide matching grants to political subdivisions of this state for rainwater harvesting demonstration projects, to, not later than December 1, 2010, provide a report to the lieutenant governor and the speaker of the house of representatives regarding the projects for which TWDB has provided grants, including a description of each project and the amount of the grant provided for each project.

SECTION 9. Provides that this Act does not make an appropriation. Provides that a provision of this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 10. Effective date: September 1, 2009.