

By: Geren

H.B. No. 1378

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the duties of the Texas Water Development Board and the
3 executive administrator of the board.

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

5 SECTION 1. Sections 15.005(a), (b), and (d), Water Code,
6 are amended to read as follows:

7 (a) On submission of a project application under this
8 chapter, the executive administrator [~~development fund manager~~]
9 shall determine if the application includes a project that will
10 have flood control as one of its purposes and if the political
11 subdivision submitting the application includes all of the
12 watershed in which the project is to be located.

13 (b) If the executive administrator [~~development fund~~
14 ~~manager~~] finds that the application includes a project that has
15 flood control as one of its purposes and that the watershed in which
16 the project is located is partially located outside the political
17 subdivision making the application, the executive administrator
18 [~~development fund manager~~] shall require the applicant to submit a
19 written memorandum of understanding relating to the management of
20 the watershed in which the project is to be located.

21 (d) The board shall not consider any application for which a
22 memorandum of understanding must be filed under this section until
23 that memorandum of understanding is filed with the executive
24 administrator [~~development fund manager~~].

1 SECTION 2. Section 16.012(m), Water Code, is amended to
2 read as follows:

3 (m) The executive administrator may conduct surveys of
4 entities using groundwater and surface water at intervals
5 determined appropriate by the executive administrator to gather
6 data to be used for long-term water supply planning. Recipients of
7 the survey shall complete and return the survey to the executive
8 administrator. A person who fails to timely complete and return the
9 survey is not eligible for funding from the board for board programs
10 and is ineligible to obtain permits, permit amendments, or permit
11 renewals from the commission under Chapter 11. A person who fails
12 to complete and return the survey commits an offense that is
13 punishable as a Class C misdemeanor. [~~Surveys obtained by the board~~
14 ~~from nongovernmental entities are excepted from the requirements of~~
15 ~~Section 552.021, Government Code, unless otherwise directed in~~
16 ~~writing by the person completing the survey.~~] This subsection does
17 not apply to survey information regarding windmills used for
18 domestic and livestock use.

19 SECTION 3. Section 16.053(d), Water Code, is amended to
20 read as follows:

21 (d) The board shall provide guidelines for the
22 consideration of existing regional planning efforts by regional
23 water planning groups. The board shall provide guidelines for the
24 format in which information shall be presented in the regional
25 water plans. [~~The board by rule shall require a holder of a surface~~
26 ~~water permit, a certified filing, or a certificate of adjudication~~
27 ~~for surface water, a holder of a permit for the export of~~

~~1 groundwater from a groundwater conservation district, a retail
2 public water supplier, a wholesale water provider, an irrigation
3 district, and any other person who is transporting groundwater or
4 surface water 20 miles or more to report to the board information on
5 certain water pipelines and other facilities that can be used for
6 water conveyance. Nothing in the initial planning effort shall
7 prevent development of a management plan or project where local or
8 regional needs require action prior to completion of the initial
9 regional water plan under this section.]~~

10 SECTION 4. Section 17.183, Water Code, is amended to read as
11 follows:

12 Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. The
13 governing body of each political subdivision receiving financial
14 assistance from the board shall require in all contracts for the
15 construction of a project:

16 (1) that each bidder furnish a bid guarantee
17 equivalent to five percent of the bid price;

18 (2) that each contractor awarded a construction
19 contract furnish performance and payment bonds:

20 (A) the performance bond shall include without
21 limitation guarantees that work done under the contract will be
22 completed and performed according to approved plans and
23 specifications and in accordance with sound construction
24 principles and practices; and

25 (B) the performance and payment bonds shall be in
26 a penal sum of not less than 100 percent of the contract price and
27 remain in effect for one year beyond the date of approval by the

1 engineer of the political subdivision; and

2 (3) that payment be made in partial payments as the
3 work progresses;

4 (4) that each partial payment shall not exceed 95
5 percent of the amount due at the time of the payment as shown by the
6 engineer of the project, but, if the project is substantially
7 complete, a partial release of the five percent retainage may be
8 made by the political subdivision with approval of the executive
9 administrator;

10 (5) that payment of the retainage remaining due upon
11 completion of the contract shall be made only after:

12 (A) approval by the engineer for the political
13 subdivision as required under the bond proceedings;

14 (B) approval by the governing body of the
15 political subdivision by a resolution or other formal action; and

16 (C) certification by the executive administrator
17 [~~development fund manager~~] in accordance with the rules of the
18 board that the work to be done under the contract has been completed
19 and performed in a satisfactory manner and in accordance with sound
20 engineering principles and practices;

21 (6) that no valid approval may be granted unless the
22 work done under the contract has been completed and performed in a
23 satisfactory manner according to approved plans and
24 specifications; and

25 (7) that, if a political subdivision receiving
26 financial assistance under Subchapter K of this chapter, labor
27 from inside the political subdivision be used to the extent

1 possible.

2 SECTION 5. Section 17.276(a), Water Code, is amended to
3 read as follows:

4 (a) After an application is received for financial
5 assistance, the executive administrator [~~development fund manager~~]
6 shall submit the application to the board together with comments
7 and recommendations concerning the best method of making financial
8 assistance available.

9 SECTION 6. Section 11.155(c), Water Code, is repealed.

10 SECTION 7. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2003.

COMMITTEE AMENDMENT NO. 1

Amend H.B. 1378 as follows:

(1) On page 2, line 4, between "water" and "at", insert "for municipal, industrial, power generation or mining purposes".

(2) On page 2, line 19, between "Section 16.053 (d)" and the comma, insert "and (e)"

(3) On page 3, after line 9, insert the following:

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

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

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

(3) identifies:

(A) each source of water supply in the regional water planning area in accordance with the guidelines provided by the board under Subsections (d) and (f);

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

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

~~[(D) information on water pipelines and other facilities that can be used for water conveyance, including, but not limited to, currently used and abandoned oil, gas, and water pipelines, as provided by board rules and guidelines,]~~

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

3 (5) includes but is not limited to consideration of
4 the following:

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

7 (B) certified groundwater conservation district
8 management plans and other plans submitted under Section 16.054;

9 (C) all potentially feasible water management
10 strategies, including but not limited to improved conservation,
11 reuse, and management of existing water supplies, acquisition of
12 available existing water supplies, and development of new water
13 supplies;

14 (D) protection of existing water rights in the
15 region;

16 (E) opportunities for and the benefits of
17 developing regional water supply facilities or providing regional
18 management of water supply facilities;

19 (F) appropriate provision for environmental
20 water needs and for the effect of upstream development on the bays,
21 estuaries, and arms of the Gulf of Mexico and the effect of plans on
22 navigation;

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

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

