

BILL ANALYSIS

C.S.S.B. 964

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Border and International Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 71st Legislature, Regular Session, 1989, passed S.B. 2, the state's first major attempt to address the problems associated with colonias, and established the Economically Distressed Areas Program (EDAP) to provide financial assistance in the form of grants and loans for water and wastewater service to economically distressed areas. The Texas Water Development Board was made the EDAP administrator and directed to develop model rules to assure water and sewer services to residential developments and to strengthen platting requirements. To be eligible for state financial assistance in water and wastewater projects, the counties and municipalities are required to adopt the model rules. EDAP is financed through general obligation bonds that were approved by constitutional amendments authorizing the board with \$250 million in bonding authority. A small amount of this bonding authority remains to address the water and wastewater needs in currently-existing traditional EDAP communities.

The committee substitute to Senate Bill 964 continues the Economically Distressed Area Program to prevent future substandard colonia-like developments in different parts of the state and extends the program statewide to address traditional EDAP communities' and non-EDAP communities' water and wastewater needs by providing the board new bonding authority, contingent on voter approval, of up to \$785 million.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 (Section 16.343, Water Code) and rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 3 (Section 16.343, Water Code) of this bill.

ANALYSIS

- SECTION 1 Amends Section 15.407(a), Water Code, to redefine "economically distressed area" and "political subdivision."
- SECTION 2 Amends Section 16.341, Water Code, to redefine "affected county" and "economically distressed area."
- SECTION 3 Amends Section 16.343, Water Code, to require the model rules adopted by the Water Development Board (Board) assure that drinking water is available to residential areas in accordance with certain rules and regulations adopted by the Texas Commission on Environmental Quality (Commission), rather than the Texas Board of Health. Requires the model rules to provide certain criteria applicable to certain tracts specifically for both border counties and non-border counties, rather than for all counties. Makes conforming and nonsubstantive changes.
- SECTION 4 Amends Section 17.0112, Water Code, to authorize the board to issue not more than \$50 million in bonds authorized under Section 49-d-10, Article III, Texas Constitution, during a fiscal year to provide financial assistance for certain water supply and sewer services. Makes conforming and nonsubstantive changes.
- SECTION 5 Amends Section 17.921, Water Code, by amending the definition of "economically distressed area" to include in the definition an established

residential subdivision that was located on June 1, 2005, [rather than 1989] as determined by the Board; and, including a definition for "economically distressed areas account" that relates to the economically distressed areas account in the Texas Water Development Board Fund or the economically distressed areas account in the Texas Water Development Board Fund II.

SECTION 6 Amends Section 17.922(b), Water Code, to make conforming changes relative to the expansion of the program and the amended definition of economically distressed area.

SECTION 7 Amends Section 17.927, Water Code, to require an application and plan [submitted by a political subdivision to the Board for financial assistance] to include certain information, and deletes references to other required information. Also makes nonsubstantive changes.

Requires the Board, before it approves the application or provides funds, to require an applicant to adopt a certain water conservation program. Deletes the reference to certain applicants including proof with the application of county or municipality consent.

Authorizes the Board, before considering an application, to require the applicant to provide certain information and documentation, provide a written determination by the Commission on the applicant's capabilities to operate the system for which assistance is being requested, and request a financial review of the applicant. Deletes existing text relating to certain other information an applicant must include in an application for financial assistance.

SECTION 8 Amends Section 17.929, Water Code, setting forth a new element the board is required to consider in passing on an application for financial assistance, and deletes other elements the board was required to consider. Makes conforming and nonsubstantive changes.

Requires the Board to find that the area to be served by the proposed project has a median house hold income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, rather than an average per capita income that is at least 25 percent below the state average for the most recent three consecutive years for which statistics are available.

SECTION 9 Amends Section 17.930(b), Water Code, to require the Board by resolution, among other options, to approve the plan and application subject to certain requirements identified by the Board or Commission, rather than by the Commission, for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, Water Code, the Board considers appropriate. Makes a nonsubstantive change.

SECTION 10 Amends Sections 17.933, Water Code, to authorize the Board to use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, grant, or other type of financial assistance to be determined by the board, rather than to a political subdivision to be repaid in the form, manner, and time provided by Board rules and the agreement between the Board and political subdivision. Makes a nonsubstantive change.

Provides that the total amount of financial assistance from state-issued bonds for which repayment is not required may not exceed 90 percent of the total principal amount of issued and unissued bonds authorized under Article III, Sections 49-d-7 and 49-d-10, rather than Section 49-d-7, of the Texas Constitution.

SECTION 11 Amends Section 17.952, Water Code, to delete the reference to a specific portion of the Texas Constitution and make a general reference to the Constitution.

SECTION 12 Amends Section 17.993(a), Water Code, to authorize the Commission or the Board to evaluate whether an operating entity needs training if the operating entity requests financial assistance or an amendment to the project plan or budget, rather than additional funding.

SECTION 13 Amends Section 212.0105, Local Government Code, to make conforming changes relative to the expansion of the program.

SECTION 14 Amends Section 232.071, Local Government Code, to provide that Subchapter C (County Planning Commission), Chapter 232, Local Government Code, applies to the subdivision of land located in a county in which is located a political subdivision that is eligible for or has applied for financial assistance under Section 15.407, Water Code, or Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17, Water Code, and to which Subchapter B (Subdivision Platting Requirements In County Near International Border) Chapter 232, Local Government Code, does not apply rather than in a county eligible for financial assistance under those provisions in the Water Code.

SECTION 15 Repeals the follow Sections of the Water Code:

- 15.407(i) (relating to continued eligibility for funds after a county has an increase in per capita income or a decrease in unemployment);
- 16.343(f) (providing that only an affected county may adopt the model rules);
- 17.923 (County Eligibility for Financial Assistance);
- 17.924 (Municipality Eligible for Financial Assistance);
- 17.925 (Districts and Nonprofit Water Supply Corporations Eligible for Financial Assistance);
- 17.926 (Applicants' Continued Eligibility); and,
- 17.933(g) (relating to the cap on the amount of financial assistance for which repayment is not required).

SECTION 16 Makes application of this Act prospective to applications for financial assistance pending or filed on or after the effective date of this Act.

SECTION 17 This Act takes effect upon approval by the voters of the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$785 million to provide assistance to economically distressed areas. If that amendment is not approved by the voters, then this Act has no effect.

EFFECTIVE DATE

Upon approval by the voters of the constitutional amendment proposed for November 8, 2005. If that amendment is not approved by the voters, then this Act has no effect.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute increases the bonding authority of the Water Development Board to \$785 million to provide assistance to economically distressed areas. The amount in the engrossed version of the bill was \$500 million.