

By: Strama (Senate Sponsor - Barrientos) H.B. No. 3029
(In the Senate - Received from the House May 11, 2005;
May 13, 2005, read first time and referred to Committee on Natural
Resources; May 20, 2005, reported favorably by the following vote:
Yeas 9, Nays 0; May 20, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to eligibility of certain rural areas for certain state
assistance.

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

SECTION 1. The heading to Subchapter O, Chapter 15, Water
Code, is amended to read as follows:

SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL
ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by
amending Subdivisions (1) and (3) and adding Subdivision (4) to
read as follows:

(1) "Fund" means the disadvantaged rural community
water and wastewater financial assistance ~~[loan]~~ fund.

(3) "Rural community" means:

(A) a municipality or county with a population of
less than 5,000; ~~[or]~~

(B) any portion of a political subdivision
~~[district or authority created under Section 52, Article III, or~~
~~Section 59, Article XVI, Texas Constitution,]~~ with a service
population of less than 5,000 that is located outside the
boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a
population of less than 5,000 that is located outside the corporate
boundaries of a municipality.

(4) "Disadvantaged rural community" means a rural
community with a median household income that is not greater than 75
percent of the median state household income for the most recent
year for which the applicable statistics are available.

SECTION 3. The heading to Section 15.902, Water Code, is
amended to read as follows:

Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND
WASTEWATER FINANCIAL ASSISTANCE ~~[LOAN]~~ FUND.

SECTION 4. Section 15.902(a), Water Code, is amended to
read as follows:

(a) The disadvantaged rural community water and wastewater
financial assistance ~~[loan]~~ fund is an account in the water
assistance fund.

SECTION 5. Sections 15.903(a), (b), and (d), Water Code,
are amended to read as follows:

(a) The fund may be used by the board to provide grants or
loans of financial assistance to political subdivisions or water
supply corporations ~~[rural communities]~~ for the construction,
acquisition, or improvement of water and wastewater projects to
provide service to disadvantaged rural communities.

(b) The board may make financial assistance available to a
political subdivision or water supply corporation ~~[rural~~
~~community]~~ by entering into a grant agreement or a loan agreement
and promissory note with the subdivision or corporation ~~[rural~~
~~community]~~, as provided by this subchapter. A political
subdivision or water supply corporation ~~[rural community]~~ may apply
for and accept the financial assistance.

(d) The loan agreement must provide for the issuance of a
promissory note payable to the board to evidence the obligation of
the political subdivision or water supply corporation ~~[rural~~
~~community]~~ to repay the loan made in accordance with the terms of
the loan agreement.

SECTION 6. Section 15.904(a), Water Code, is amended to
read as follows:

(a) A political subdivision or water supply corporation may pledge a percentage of its revenue to the payment of debt incurred under a loan agreement entered into with the board under this subchapter. A ~~[rural community that is a]~~ municipality or county may pledge a percentage of the sales and use tax revenue received under Chapter 321 or 323, Tax Code, as applicable, to the payment of debt incurred under a loan agreement entered into with the board under this subchapter if a majority of the voters voting at an election called and held for that purpose authorize the municipality or county to pledge a portion of that revenue for that purpose.

SECTION 7. Section 15.905, Water Code, is amended to read as follows:

Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY ATTORNEY GENERAL. (a) Before a loan agreement may become effective, a record of the proceedings of the board and the political subdivision or water supply corporation ~~[rural community]~~ authorizing the execution of the loan agreement, the loan agreement, the promissory note, and any contract providing revenue or security to pay the promissory note must be submitted to the attorney general for review and approval.

(b) If the attorney general finds that the loan agreement and the promissory note are valid and binding obligations of the political subdivision or water supply corporation ~~[rural community]~~, the attorney general shall approve the documents and deliver them to the comptroller, the board, and the subdivision or corporation ~~[rural community]~~, together with a copy of the attorney general's legal opinion stating that approval.

SECTION 8. Section 15.909, Water Code, is amended to read as follows:

Sec. 15.909. RULES. The board shall adopt necessary rules to administer this subchapter, including rules establishing procedures for application for and award of loans or grants.

SECTION 9. Section 15.910, Water Code, is amended to read as follows:

Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation ~~[the rural community]~~ must include:

(1) its ~~[the]~~ name ~~[of the rural community]~~ and its principal officers;

(2) a citation of the law under which the subdivision or corporation ~~[the rural community]~~ operates and was created;

(3) a description of the water or wastewater project for which the financial assistance will be used;

(4) the total cost of the project;

(5) the amount of state financial assistance requested;

(6) the plan for repaying any loan provided by the board for ~~[the total cost of]~~ the project; and

(7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation ~~[rural community]~~. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation ~~[rural community]~~ has a program of water conservation, the subdivision or corporation ~~[rural community]~~ shall state in the application that the subdivision or corporation ~~[rural community]~~ has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

(1) the median household income of the disadvantaged rural community; and

3-1 (2) the level of community support for the project.

3-2 SECTION 10. Section 15.911, Water Code, is amended to read
3-3 as follows:

3-4 Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may
3-5 not release funds for the construction phase of that portion of a
3-6 project that proposes surface water or groundwater development
3-7 until the executive administrator makes a written finding:

3-8 (1) that the political subdivision or water supply
3-9 corporation [a rural community] proposing surface water
3-10 development has the necessary water right authorizing it to
3-11 appropriate and use the water that the project will provide; or

3-12 (2) that the subdivision or corporation [a rural
3-13 community] proposing groundwater development has the right to use
3-14 water that the project will provide.

3-15 (b) If the political subdivision or water supply
3-16 corporation [a rural community] includes a proposal for a
3-17 wastewater treatment project, the board may not release funds for
3-18 the project construction until the subdivision or corporation
3-19 [rural community] has received a permit for the construction and
3-20 operation of the project and approval of the plans and
3-21 specifications for the project in a manner that will satisfy
3-22 commission requirements for design criteria and permit conditions
3-23 that apply to construction activities.

3-24 SECTION 11. Section 15.912, Water Code, is amended to read
3-25 as follows:

3-26 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In
3-27 acting on an application for financial assistance, the board shall
3-28 consider:

3-29 (1) the needs of the area to be served by the project
3-30 and the benefit of the project to the area in relation to the needs
3-31 of other areas requiring state assistance in any manner and the
3-32 benefits of those projects to the other areas;

3-33 (2) the availability of revenue to the political
3-34 subdivision or water supply corporation [rural community] from all
3-35 sources for any necessary [the ultimate] repayment of the cost of
3-36 the project, including all interest;

3-37 (3) the relationship of the project to overall
3-38 statewide needs; and

3-39 (4) any other factors that the board considers
3-40 relevant.

3-41 SECTION 12. Section 15.913, Water Code, is amended to read
3-42 as follows:

3-43 Sec. 15.913. APPROVAL OF APPLICATION. The board by
3-44 resolution may approve an application for a loan or grant if, after
3-45 considering the factors listed in Section 15.912 and any other
3-46 relevant factors, the board finds that:

3-47 (1) the public interest requires state participation
3-48 in the project; and

3-49 (2) the revenue or taxes pledged by the political
3-50 subdivision or water supply corporation [rural community] will be
3-51 sufficient to meet all the obligations assumed by the subdivision
3-52 or corporation [rural community] during the [succeeding] period of
3-53 any loan provided by the board [not more than 20 years].

3-54 SECTION 13. Section 15.914, Water Code, is amended to read
3-55 as follows:

3-56 Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A
3-57 political subdivision or water supply corporation [The governing
3-58 body of each rural community] receiving financial assistance [from
3-59 the board] under this subchapter shall require in all contracts for
3-60 the construction of a project that:

3-61 (1) each bidder furnish a bid guarantee equivalent to
3-62 five percent of the bid price;

3-63 (2) each contractor awarded a construction contract
3-64 furnish performance and payment bonds as follows:

3-65 (A) the performance bond must include guarantees
3-66 that work done under the contract will be completed and performed
3-67 according to approved plans and specifications and in accordance
3-68 with sound construction principles and practices; and

3-69 (B) the performance and payment bonds must be in

4-1 a penal sum of not less than 100 percent of the contract price and
 4-2 remain in effect for one year after the date of approval by the
 4-3 engineer of the ~~[political]~~ subdivision or corporation;

4-4 (3) payment be made in partial payments as the work
 4-5 progresses;

4-6 (4) each partial payment not exceed 95 percent of the
 4-7 amount due at the time of the payment as shown by the engineer of the
 4-8 project, but, if the project is substantially complete, a partial
 4-9 release of the five percent retainage may be made by the subdivision
 4-10 or corporation ~~[rural community]~~ with approval of the executive
 4-11 administrator;

4-12 (5) payment of the retainage remaining due on
 4-13 completion of the contract be made only after:

4-14 (A) approval by the engineer for the subdivision
 4-15 or corporation ~~[rural community]~~ as required under the bond
 4-16 proceedings;

4-17 (B) approval by the subdivision or corporation
 4-18 ~~[governing body of the rural community]~~ by a resolution or other
 4-19 formal action; and

4-20 (C) certification by the executive administrator
 4-21 in accordance with the rules of the board that the work to be done
 4-22 under the contract has been completed and performed in a
 4-23 satisfactory manner and in accordance with sound engineering
 4-24 principles and practices;

4-25 (6) no valid approval be granted unless the work done
 4-26 under the contract has been completed and performed in a
 4-27 satisfactory manner according to approved plans and
 4-28 specifications; and

4-29 (7) labor from inside the disadvantaged rural
 4-30 community be used to the extent possible.

4-31 SECTION 14. Section 15.915, Water Code, is amended to read
 4-32 as follows:

4-33 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political
 4-34 subdivision or water supply corporation ~~[rural community]~~ shall
 4-35 file with the board a certified copy of each construction contract
 4-36 it enters into for the construction of all or part of a project.
 4-37 Each contract must contain or have attached to it the
 4-38 specifications, plans, and details of all work included in the
 4-39 contract.

4-40 SECTION 15. Section 15.917, Water Code, is amended to read
 4-41 as follows:

4-42 Sec. 15.917. ALTERATION OF PLANS. After the executive
 4-43 administrator approves the engineering plans, a political
 4-44 subdivision or water supply corporation ~~[rural community]~~ may not
 4-45 make any substantial or material alteration in the plans unless the
 4-46 executive administrator authorizes the alteration. The executive
 4-47 administrator ~~[board]~~ shall review and approve or disapprove plans
 4-48 and specifications for all sewage collection, treatment, and
 4-49 disposal systems for which financial assistance is provided from
 4-50 the fund in a manner that will satisfy commission requirements for
 4-51 design criteria and permit conditions that apply to construction
 4-52 activities.

4-53 SECTION 16. Section 15.920, Water Code, is amended to read
 4-54 as follows:

4-55 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER
 4-56 SUPPLY CORPORATIONS ~~[RURAL COMMUNITIES]~~. Political subdivisions
 4-57 or water supply corporations ~~[Rural communities]~~ that receive
 4-58 financial assistance from the fund are granted all necessary
 4-59 authority to enter into grant agreements or loan agreements and
 4-60 issue promissory notes in connection with the financial assistance
 4-61 granted under this subchapter.

4-62 SECTION 17. The following sections are repealed:

4-63 (1) Section 15.901(2), Water Code;

4-64 (2) Section 15.903(e), Water Code; and

4-65 (3) Section 15.919, Water Code.

4-66 SECTION 18. The changes in law made by this Act apply only
 4-67 to an application for financial assistance made on or after the
 4-68 effective date of this Act. An application for financial
 4-69 assistance made before the effective date of this Act is governed by

5-1 the law in effect on the date the application was made, and the
5-2 former law is continued in effect for that purpose.

5-3 SECTION 19. This Act takes effect immediately if it
5-4 receives a vote of two-thirds of all the members elected to each
5-5 house, as provided by Section 39, Article III, Texas Constitution.
5-6 If this Act does not receive the vote necessary for immediate
5-7 effect, this Act takes effect September 1, 2005.

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