

House Bill 3605
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. Subchapter D, Chapter 17, Water Code, is amended by adding Section 17.1245 to read as follows:

Sec. 17.1245. EVALUATION AND MODIFICATION OF CERTAIN APPLICATIONS.

(a) In passing on an application for financial assistance from a retail public utility that provides potable water service to 3,300 or more connections, the board shall:

(1) evaluate the utility's system water loss based on the most recent audit prepared under Section 16.0121;

(2) evaluate for compliance with the board's best management practices the utility's water conservation plan required under Section 13.146; and

(3) issue a report to the utility detailing the results of the evaluation conducted under Subdivision (2).

SENATE VERSION (IE)

SECTION 1. Section 16.0121, Water Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) A retail public utility providing potable water that receives from the board financial assistance shall use a portion of that financial assistance, or any additional financial assistance provided by the board for the purpose described by this subsection, to mitigate the utility's system water loss if, based on a water audit filed by the utility under this section, the water loss meets or exceeds the threshold established by board rule.

(h) For each category of retail public utility listed in Subsection (c), the board shall adopt rules regarding:

(1) the amount of system water loss that requires a utility to take action under Subsection (g); and

(2) the use of financial assistance from the board as required by Subsection (g) to mitigate system water loss.

SECTION __. Subchapter D, Chapter 17, Water Code, is amended by adding Section 17.1245 to read as follows:

Sec. 17.1245. EVALUATION.

(a) In passing on an application for financial assistance from a retail public utility that provides potable water service to 3,300 or more connections, the board shall:

(1) evaluate for compliance with the board's best management practices and utility's water conservation plan required under Section 13.146; and

(2) issue a report to a utility detailing the results of the evaluation conducted under Subdivision (1).

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(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a written summary of the results of evaluations conducted under Subsection (a)(2).

(c) If an evaluation conducted under Subsection (a)(1) indicates that a utility's system water loss exceeds 15 percent annually, the board:

(1) shall require the utility to amend the utility's application for financial assistance to include a plan to reduce the utility's system water loss to less than 15 percent annually; and

(2) may require that a portion of financial assistance awarded under this chapter be used to mitigate the system water loss or award additional financial assistance for that purpose.

(d) The board, by a two-thirds vote, may exempt from the application of Subsection (c) a utility whose system water loss exceeds 15 percent.

SECTION 2. Section 17.1245, Water Code, as added by this Act, applies only to an application for financial assistance submitted on or after the effective date of this Act. An application for financial assistance submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

No equivalent provision.

SENATE VERSION (IE)

(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a written summary of the results of evaluations conducted under Subsection (a)(1).
[FA1]

Same as House version. [FA1]

SECTION __. Section 17.183, Water Code, is amended to read as follows:

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

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- (1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;
- (2) that each contractor awarded a construction contract furnish performance and payment bonds:
 - (A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and
 - (B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; ~~and~~
- (3) that payment be made in partial payments as the work progresses;
- (4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;
- (5) that payment of the retainage remaining due upon completion of the contract shall be made only after:
 - (A) approval by the engineer for the political subdivision as required under the bond proceedings;
 - (B) approval by the governing body of the political subdivision by a resolution or other formal action; and
 - (C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications ~~[sound engineering principles and practices]~~;

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

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

(b) Plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards. [FA2]

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as House version.