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S.B. No. 2140

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision by the Texas Water Development Board of
3 financial assistance for the development of certain projects in
4 economically distressed areas.

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

6 SECTION 1. The heading to Subchapter K, Chapter 17, Water
7 Code, is amended to read as follows:

8 SUBCHAPTER K. ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER
9 SUPPLY, ~~[AND]~~ SEWER SERVICE, AND DRAINAGE PROJECTS

10 SECTION 2. Sections 17.921(1) and (2), Water Code, are
11 amended to read as follows:

12 (1) "Economically distressed area" means an area in
13 which:

14 (A) water supply, ~~[or]~~ sewer, or drainage
15 services are inadequate to meet minimal needs of residential users
16 as defined by board rules;

17 (B) financial resources are inadequate to
18 provide water supply, ~~[or]~~ sewer, or drainage services that will
19 satisfy those needs; and

20 (C) an established residential subdivision was
21 located on June 1, 2005, as determined by the board.

22 (2) "Financial assistance" means the funds provided by
23 the board to political subdivisions for water supply, ~~[and]~~ sewer,
24 and drainage services under this subchapter.

1 SECTION 3. Section 17.922, Water Code, is amended to read as
2 follows:

3 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically
4 distressed areas account may be used by the board to provide
5 financial assistance to political subdivisions for the
6 construction, acquisition, or improvement of water supply, ~~and~~
7 sewer, and drainage services, including providing funds from the
8 account for the state's participation in federal programs that
9 provide assistance to political subdivisions.

10 (b) To the extent practicable, the board shall use the funds
11 in the economically distressed areas account in conjunction with
12 the other financial assistance available through the board to
13 encourage the use of cost-effective water supply, ~~and~~
14 and drainage systems, including regional systems, to maximize the
15 long-term economic development of counties eligible for financial
16 assistance under the economically distressed areas program. Any
17 savings derived from the construction of a regional system that
18 includes or serves an economically distressed area project shall be
19 factored into the board's determination of financial assistance for
20 the economically distressed area in a manner that assures the
21 economically distressed area receives appropriate benefits from
22 the savings. In no event shall financial assistance provided from
23 the economically distressed areas account be used to provide water
24 supply, ~~or~~ wastewater, or drainage service to any area that is not
25 an economically distressed area.

26 SECTION 4. Subchapter K, Chapter 17, Water Code, is amended
27 by adding Section 17.9226 to read as follows:

1 Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. The
2 board shall:

3 (1) work to maximize the effectiveness of the
4 additional general obligation bonds authorized by Section
5 49-d-10(a-1), Article III, Texas Constitution, by using the
6 additional bonds in conjunction with other sources of financial
7 assistance, including nonpublic funds, to provide financial
8 assistance to political subdivisions for the construction,
9 acquisition, or improvement of water supply, sewer, and drainage
10 services; and

11 (2) use the additional general obligation bonds
12 authorized by Section 49-d-10(a-1), Article III, Texas
13 Constitution, to promote and support public-private partnerships
14 that the board determines:

15 (A) are financially viable;

16 (B) will diversify the methods of financing
17 available for water supply, sewer, and drainage services; and

18 (C) will reduce reliance on the issuance of bonds
19 supported with general revenue.

20 SECTION 5. Sections 17.927(a) and (b), Water Code, are
21 amended to read as follows:

22 (a) A political subdivision may apply to the board for
23 financial assistance under this subchapter by submitting an
24 application together with a plan for providing water supply, ~~and~~
25 sewer, or drainage services to an economically distressed area for
26 which the financial assistance is to be used.

27 (b) The application and plan must include:

1 (1) the name of the political subdivision and its
2 principal officers;

3 (2) a citation of the law under which the political
4 subdivision was created and operates;

5 (3) a project plan, prepared and certified by an
6 engineer registered to practice in this state, that must:

7 (A) describe the proposed planning, design, and
8 construction activities necessary to provide water supply, ~~and~~
9 sewer, or drainage services that meet minimum state standards; and

10 (B) identify the households to which the water
11 supply, ~~and~~ sewer, or drainage services will be provided;

12 (4) a budget that estimates the total cost of
13 providing water supply, ~~and~~ sewer, or drainage services to the
14 economically distressed area and a proposed schedule and method for
15 repayment of financial assistance consistent with board rules and
16 guidelines;

17 (5) a description of the existing water supply, ~~and~~
18 sewer, or drainage facilities located in the area to be served by
19 the proposed project, including a statement prepared and certified
20 by an engineer registered to practice in this state that the
21 facilities do not meet minimum state standards;

22 (6) documentation that the appropriate political
23 subdivision has adopted the model rules developed under Section
24 [16.343](#);

25 (7) information identifying the median household
26 income for the area to be served by the proposed project; and

27 (8) the total amount of assistance requested from the

1 economically distressed areas account.

2 SECTION 6. Section 17.928(c), Water Code, is amended to
3 read as follows:

4 (c) If an applicant includes a proposal for treatment or
5 drainage works, the board may not deliver funds for the treatment or
6 drainage works until the applicant has received a permit for
7 construction and operation of the treatment or drainage works and
8 approval of the plans and specifications from the commission or
9 unless such a permit is not required by the commission.

10 SECTION 7. Section 17.929(a), Water Code, is amended to
11 read as follows:

12 (a) In passing on an application for financial assistance,
13 the board shall consider:

14 (1) the need of the economically distressed area to be
15 served by the water supply, ~~and~~ sewer, or drainage services in
16 relation to the need of other political subdivisions requiring
17 financial assistance under this subchapter and the relative costs
18 and benefits of all applications;

19 (2) the availability to the area to be served by the
20 project of revenue or financial assistance from alternative sources
21 for the payment of the cost of the proposed project;

22 (3) the financing of the proposed water supply, ~~and~~
23 sewer, or drainage project, including consideration of:

24 (A) the budget and repayment schedule submitted
25 under Section 17.927(b)(4);

26 (B) other items included in the application
27 relating to financing; and

1 (C) other financial information and data
2 available to the board;

3 (4) whether the county and other appropriate political
4 subdivisions have adopted model rules pursuant to Section 16.343
5 and the manner of enforcement of model rules; and

6 (5) the feasibility of achieving cost savings by
7 providing a regional facility for water supply or wastewater
8 service and the feasibility of financing the facility by using
9 funds from the economically distressed areas account or any other
10 financial assistance.

11 SECTION 8. Section 17.933(d), Water Code, is amended to
12 read as follows:

13 (d) In determining the amount and form of financial
14 assistance and the amount and form of repayment, if any, the board
15 shall consider:

16 (1) rates, fees, and charges that the average customer
17 to be served by the project will be able to pay based on a comparison
18 of what other families of similar income who are similarly situated
19 pay for comparable services;

20 (2) sources of funding available to the political
21 subdivision from federal and private funds and from other state
22 funds;

23 (3) any local funds of the political subdivision to be
24 served by the project if the economically distressed area to be
25 served by the board's financial assistance is within the boundary
26 of the political subdivision; and

27 (4) the just, fair, and reasonable charges for water,

1 [~~and~~] wastewater, and drainage service as provided in this code.

2 SECTION 9. Section 17.936(d), Water Code, is amended to
3 read as follows:

4 (d) The provider of water or wastewater utility or drainage
5 service to an economically distressed area may recover from a
6 developer or owner of an undeveloped lot economically distressed
7 areas program impact fees as provided by rules adopted by the board.

8 SECTION 10. This Act takes effect on the date on which the
9 constitutional amendment proposed by the 85th Legislature, Regular
10 Session, 2017, providing for the issuance of additional general
11 obligation bonds by the Texas Water Development Board to provide
12 financial assistance for the development of certain projects in
13 economically distressed areas takes effect. If that amendment is
14 not approved by the voters, this Act has no effect.