

By: Lucio, et al.
(González of El Paso)

S.B. No. 2452

Substitute the following for S.B. No. 2452:

By: Dominguez

C.S.S.B. No. 2452

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. Section 17.922, Water Code, is amended to read as
7 follows:

8 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The board shall
9 use the economically distressed areas account [~~may be used by the~~
10 ~~board~~] to provide financial assistance to political subdivisions
11 for the construction, acquisition, or improvement of water supply
12 and sewer services, including providing funds from the account for
13 the state's participation in federal programs that provide
14 assistance solely for projects intended to serve economically
15 distressed areas [~~to political subdivisions~~].

16 (b) To the extent practicable, the board shall use money
17 [~~the funds~~] in the economically distressed areas account in
18 conjunction with the other financial assistance available through
19 the board to encourage the use of cost-effective water supply and
20 wastewater systems, including regional systems, to maximize the
21 long-term economic development of political subdivisions
22 [~~counties~~] eligible for financial assistance under the
23 economically distressed areas program. Any savings derived from
24 the construction of a regional system that includes or serves an

1 economically distressed area project shall be factored into the
2 board's determination of financial assistance for the economically
3 distressed area in a manner that assures the economically
4 distressed area receives appropriate benefits from the savings. In
5 no event shall financial assistance provided from the economically
6 distressed areas account be used to provide water supply or
7 wastewater service to any area that is not an economically
8 distressed area.

9 SECTION 2. Subchapter K, Chapter 17, Water Code, is amended
10 by adding Section 17.9226 to read as follows:

11 Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. The
12 board may:

13 (1) maximize the effectiveness of the additional
14 general obligation bonds authorized by Section 49-d-14, Article
15 III, Texas Constitution, by using the additional bonds in
16 conjunction with other sources of financial assistance, including
17 nonpublic funds, to provide financial assistance to political
18 subdivisions for the construction, acquisition, or improvement of
19 water supply and sewer services; and

20 (2) use the additional general obligation bonds
21 authorized by Section 49-d-14, Article III, Texas Constitution, to
22 promote and support public-private partnerships that the board
23 determines:

24 (A) are financially viable;

25 (B) will diversify the methods of financing
26 available for water supply and sewer services; and

27 (C) will reduce reliance on the issuance of bonds

1 supported with general revenue.

2 SECTION 3. Sections 17.927(b) and (c), Water Code, are
3 amended to read as follows:

4 (b) The application and plan must include:

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

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

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

11 (A) describe the proposed planning, design, and
12 construction activities necessary to provide water supply and sewer
13 services that meet minimum state standards provided by board rules;
14 and

15 (B) identify the households to which the water
16 supply and sewer services will be provided;

17 (4) a budget that estimates the total cost of
18 providing water supply and sewer services to the economically
19 distressed area and a proposed schedule and method for repayment of
20 financial assistance consistent with board rules and guidelines;

21 (5) a description of the existing water supply and
22 sewer facilities located in the area to be served by the proposed
23 project, including a statement prepared and certified by an
24 engineer registered to practice in this state that the facilities
25 do not meet minimum state standards;

26 (6) documentation that the appropriate political
27 subdivision has adopted and enforces the model rules developed

1 under Section 16.343;

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

4 (8) the total amount of assistance requested from the
5 economically distressed areas account.

6 (c) Before the board approves the application or provides
7 any funds under an application, it shall require an applicant to
8 adopt a program of water conservation for the more effective use of
9 water that meets the criteria established under Section 17.125 for
10 water supply projects or under Section 17.277 for water quality
11 enhancement projects.

12 SECTION 4. Subchapter K, Chapter 17, Water Code, is amended
13 by adding Section 17.9275 to read as follows:

14 Sec. 17.9275. PRIORITIZATION OF PROJECTS BY BOARD.

15 (a) The board shall prioritize projects for the purpose of
16 providing financial assistance under this subchapter.

17 (b) The board shall establish a system for prioritizing
18 projects for which financial assistance is sought from the board.
19 The system must include a standard for the board to apply in
20 determining whether a project qualifies for financial assistance at
21 the time the application for financial assistance is filed with the
22 board.

23 (c) The board shall give the highest consideration to
24 projects that will have a substantial effect, including projects:

25 (1) that will serve an area for which the board or the
26 Department of State Health Services has determined that a nuisance
27 dangerous to the public health and safety exists resulting from

1 water supply and sanitation problems; or

2 (2) for which the applicant:

3 (A) is subject to an enforcement action,
4 including a final order, judgment, or consent decree, by the
5 commission, the state, or the United States Environmental
6 Protection Agency, related to public health and safety issues
7 resulting from water supply or sewer services; and

8 (B) did not cause or allow the violations that
9 are the subject of the enforcement action.

10 (d) The board by rule may provide for the consideration of
11 additional criteria.

12 SECTION 5. Section 17.928(c), Water Code, is amended to
13 read as follows:

14 (c) If an applicant includes a proposal for treatment
15 works[~~7~~] the board may not deliver funds for the treatment works
16 until the applicant has received:

17 (1) a permit for construction and operation of the
18 treatment works from the commission or other applicable permitting
19 authority unless such a permit is not required; and

20 (2) approval of the plans and specifications from the
21 commission, the executive administrator, or other applicable
22 authority [~~or unless such a permit is not required by the~~
23 ~~commission~~].

24 SECTION 6. Section 17.929(a), Water Code, is amended to
25 read as follows:

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

1 (1) the need of the economically distressed area to be
2 served by the water supply and sewer services in relation to the
3 need of other political subdivisions requiring financial
4 assistance under this subchapter and the relative costs and
5 benefits of all applications;

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

9 (3) the financing of the proposed water supply and
10 sewer project including consideration of:

11 (A) the budget and repayment schedule submitted
12 under Section 17.927(b)(4);

13 (B) other items included in the application
14 relating to financing; and

15 (C) other financial information and data
16 available to the board;

17 (4) whether the county and other appropriate political
18 subdivisions have adopted model rules pursuant to Section 16.343
19 and the manner of enforcement of model rules; ~~and~~

20 (5) the feasibility of achieving cost savings by
21 providing a regional facility for water supply or wastewater
22 service and the feasibility of financing the facility by using
23 funds from the economically distressed areas account or any other
24 financial assistance; and

25 (6) the ability of the applicant to repay the
26 financial assistance.

27 SECTION 7. Section 17.931, Water Code, is amended to read as

1 follows:

2 Sec. 17.931. APPLICATION AMENDMENT. (a) A political
3 subdivision may request the executive administrator [~~board~~] in
4 writing to approve a change to or a modification of the budget or
5 project plan included in its application if the change or
6 modification does not increase the budget or change the project
7 scope.

8 (b) A change or modification requested under Subsection (a)
9 may not be implemented unless the executive administrator [~~board~~]
10 provides [~~its~~] written approval.

11 SECTION 8. Sections 17.933(a), (b), (c), and (d), Water
12 Code, are amended to read as follows:

13 (a) The board may use money in the economically distressed
14 areas account to provide financial assistance to a political
15 subdivision in the form of a loan, [~~including~~] a loan with zero
16 interest, a grant, or other type of financial assistance to be
17 determined by the board taking into consideration the information
18 provided by Section 17.927(b)(7) and the political subdivision's
19 ability to repay the financial assistance.

20 (b) In providing financial assistance to an applicant under
21 this subchapter, the board may not provide to the applicant
22 financial assistance for which repayment is not required in an
23 amount that exceeds 50 percent of the total amount of the financial
24 assistance [~~plus interest on any amount that must be repaid~~],
25 unless the board or the [~~Texas~~] Department of State Health Services
26 determines [~~issues a finding~~] that a nuisance dangerous to the
27 public health and safety exists resulting from water supply and

1 sanitation problems in the area to be served by the proposed
2 project. The board may provide the repayable portion of financial
3 assistance from any financial assistance program for which the
4 applicant is eligible. The ~~[board and the]~~ applicant shall provide
5 to the board or the ~~[Texas]~~ Department of State Health Services
6 information necessary to make a determination, and the board and
7 the ~~[Texas]~~ Department of State Health Services may enter into
8 necessary memoranda of understanding to carry out this subsection.

9 (c) The total amount of financial assistance provided by the
10 board to political subdivisions under this subchapter from
11 state-issued bonds for which repayment is not required may not
12 exceed at any time 70 ~~[90]~~ percent of the total principal amount of
13 issued and unissued bonds authorized under Article III of the Texas
14 Constitution, for purposes of this subchapter plus outstanding
15 interest on those bonds.

16 (d) In determining the amount and form of financial
17 assistance and the amount and form of repayment, if any, the board
18 shall establish repayment based on the political subdivision's
19 ability to repay the financial assistance and shall consider:

20 (1) rates, fees, and charges that the average customer
21 to be served by the project will be able to pay ~~[based on a~~
22 ~~comparison of what other families of similar income who are~~
23 ~~similarly situated pay for comparable services];~~

24 (2) sources of funding available to the political
25 subdivision from federal and private funds and from other state
26 funds;

27 (3) any local funds of the political subdivision to be

1 served by the project if the economically distressed area to be
2 served by the board's financial assistance is within the boundary
3 of the political subdivision; ~~and~~

4 (4) the just, fair, and reasonable charges for water
5 and wastewater service as provided in this code; and

6 (5) the ability of the board to maximize the portion of
7 financial assistance for which repayment is required based on the
8 political subdivision's ability to repay the assistance, as
9 provided by board rule.

10 SECTION 9. Subchapter K, Chapter 17, Water Code, is amended
11 by adding Section 17.937 to read as follows:

12 Sec. 17.937. REPORTING AND TRANSPARENCY REQUIREMENTS.

13 (a) Annually, the board shall post on the board's Internet website
14 a report detailing each project for which the board has provided
15 financial assistance under this subchapter.

16 (b) The report must include:

17 (1) a description of each project;

18 (2) the location of each project;

19 (3) the number of residents served by each project;

20 (4) the amount of financial assistance provided or
21 anticipated to be provided for each project;

22 (5) a statement of whether each project has been
23 completed and, if not, the expected completion date;

24 (6) the date on which each appropriate political
25 subdivision adopted the model rules developed under Section 16.343;

26 and

27 (7) the date on which each appropriate political

1 subdivision certified that it enforces the applicable model rules
2 developed under Section 16.343 or a description of measures taken
3 to mitigate any deficiencies in compliance.

4 SECTION 10. Section 17.933(b-1), Water Code, is repealed.

5 SECTION 11. The Texas Water Development Board is required
6 to implement a provision of this Act only if the legislature
7 appropriates money specifically for that purpose. If the
8 legislature does not appropriate money specifically for that
9 purpose, the board may, but is not required to, implement a
10 provision of this Act using other appropriations available for that
11 purpose.

12 SECTION 12. This Act takes effect on the date on which the
13 constitutional amendment proposed by the 86th Legislature, Regular
14 Session, 2019, providing for the issuance of additional general
15 obligation bonds by the Texas Water Development Board in an amount
16 not to exceed \$200 million to provide financial assistance for the
17 development of certain projects in economically distressed areas
18 takes effect. If that amendment is not approved by the voters, this
19 Act has no effect.