

1-1 By: Lucio, Hinojosa, Perry S.B. No. 2452
1-2 (In the Senate - Filed March 20, 2019; March 27, 2019, read
1-3 first time and referred to Committee on Water & Rural Affairs;
1-4 April 23, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 23, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2452 By: Creighton

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the provision by the Texas Water Development Board of
1-20 financial assistance for the development of certain projects in
1-21 economically distressed areas.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 17.922, Water Code, is amended to read as
1-24 follows:

1-25 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The board shall
1-26 use the economically distressed areas account [~~may be used by the~~
1-27 ~~board~~] to provide financial assistance to political subdivisions
1-28 for the construction, acquisition, or improvement of water supply
1-29 and sewer services, including providing funds from the account for
1-30 the state's participation in federal programs that provide
1-31 assistance solely for projects intended to serve economically
1-32 distressed areas [~~to political subdivisions~~].

1-33 (b) To the extent practicable, the board shall use money
1-34 [~~the funds~~] in the economically distressed areas account in
1-35 conjunction with the other financial assistance available through
1-36 the board to encourage the use of cost-effective water supply and
1-37 wastewater systems, including regional systems, to maximize the
1-38 long-term economic development of political subdivisions
1-39 [~~counties~~] eligible for financial assistance under the
1-40 economically distressed areas program. Any savings derived from
1-41 the construction of a regional system that includes or serves an
1-42 economically distressed area project shall be factored into the
1-43 board's determination of financial assistance for the economically
1-44 distressed area in a manner that assures the economically
1-45 distressed area receives appropriate benefits from the savings. In
1-46 no event shall financial assistance provided from the economically
1-47 distressed areas account be used to provide water supply or
1-48 wastewater service to any area that is not an economically
1-49 distressed area.

1-50 SECTION 2. Subchapter K, Chapter 17, Water Code, is amended
1-51 by adding Section 17.9226 to read as follows:

1-52 Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. The
1-53 board may:

1-54 (1) maximize the effectiveness of the additional
1-55 general obligation bonds authorized by Section 49-d-14, Article
1-56 III, Texas Constitution, by using the additional bonds in
1-57 conjunction with other sources of financial assistance, including
1-58 nonpublic funds, to provide financial assistance to political
1-59 subdivisions for the construction, acquisition, or improvement of
1-60 water supply and sewer services; and

2-1 (2) use the additional general obligation bonds
2-2 authorized by Section 49-d-14, Article III, Texas Constitution, to
2-3 promote and support public-private partnerships that the board
2-4 determines:

- 2-5 (A) are financially viable;
- 2-6 (B) will diversify the methods of financing
- 2-7 available for water supply and sewer services; and
- 2-8 (C) will reduce reliance on the issuance of bonds
- 2-9 supported with general revenue.

2-10 SECTION 3. Sections 17.927(b) and (c), Water Code, are
2-11 amended to read as follows:

2-12 (b) The application and plan must include:
2-13 (1) the name of the political subdivision and its
2-14 principal officers;

2-15 (2) a citation of the law under which the political
2-16 subdivision was created and operates;

2-17 (3) a project plan, prepared and certified by an
2-18 engineer registered to practice in this state, that must:

2-19 (A) describe the proposed planning, design, and
2-20 construction activities necessary to provide water supply and sewer
2-21 services that meet minimum state standards provided by board rules;
2-22 and

2-23 (B) identify the households to which the water
2-24 supply and sewer services will be provided;

2-25 (4) a budget that estimates the total cost of
2-26 providing water supply and sewer services to the economically
2-27 distressed area and a proposed schedule and method for repayment of
2-28 financial assistance consistent with board rules and guidelines;

2-29 (5) a description of the existing water supply and
2-30 sewer facilities located in the area to be served by the proposed
2-31 project, including a statement prepared and certified by an
2-32 engineer registered to practice in this state that the facilities
2-33 do not meet minimum state standards;

2-34 (6) documentation that the appropriate political
2-35 subdivision has adopted and enforces the model rules developed
2-36 under Section 16.343;

2-37 (7) information identifying the median household
2-38 income for the area to be served by the proposed project; and

2-39 (8) the total amount of assistance requested from the
2-40 economically distressed areas account.

2-41 (c) Before the board approves the application or provides
2-42 any funds under an application, it shall require an applicant to
2-43 adopt a program of water conservation for the more effective use of
2-44 water that meets the criteria established under Section 17.125 for
2-45 water supply projects or under Section 17.277 for water quality
2-46 enhancement projects.

2-47 SECTION 4. Subchapter K, Chapter 17, Water Code, is amended
2-48 by adding Section 17.9275 to read as follows:

2-49 Sec. 17.9275. PRIORITIZATION OF PROJECTS BY BOARD.

2-50 (a) The board shall prioritize projects for the purpose of
2-51 providing financial assistance under this subchapter.

2-52 (b) The board shall establish a system for prioritizing
2-53 projects for which financial assistance is sought from the board.
2-54 The system must include a standard for the board to apply in
2-55 determining whether a project qualifies for financial assistance at
2-56 the time the application for financial assistance is filed with the
2-57 board.

2-58 (c) The board shall give the highest consideration to
2-59 projects that will have a substantial effect, including projects:

2-60 (1) that will serve an area for which the board or the
2-61 Department of State Health Services has determined that a nuisance
2-62 dangerous to the public health and safety exists resulting from
2-63 water supply and sanitation problems; or

2-64 (2) for which the applicant:

2-65 (A) is subject to an enforcement action,
2-66 including a final order, judgment, or consent decree, by the
2-67 commission, the state, or the United States Environmental
2-68 Protection Agency, related to public health and safety issues
2-69 resulting from water supply or sewer services; and

3-1 (B) did not cause or allow the violations that
 3-2 are the subject of the enforcement action.

3-3 (d) The board by rule may provide for the consideration of
 3-4 additional criteria.

3-5 SECTION 5. Section 17.928(c), Water Code, is amended to
 3-6 read as follows:

3-7 (c) If an applicant includes a proposal for treatment
 3-8 works~~[r]~~ the board may not deliver funds for the treatment works
 3-9 until the applicant has received:

3-10 (1) a permit for construction and operation of the
 3-11 treatment works from the commission or other applicable permitting
 3-12 authority unless such a permit is not required; and

3-13 (2) approval of the plans and specifications from the
 3-14 commission, the executive administrator, or other applicable
 3-15 authority ~~[or unless such a permit is not required by the~~
 3-16 ~~commission].~~

3-17 SECTION 6. Section 17.931, Water Code, is amended to read as
 3-18 follows:

3-19 Sec. 17.931. APPLICATION AMENDMENT. (a) A political
 3-20 subdivision may request the executive administrator ~~[board]~~ in
 3-21 writing to approve a change to or a modification of the budget or
 3-22 project plan included in its application if the change or
 3-23 modification does not increase the budget or change the project
 3-24 scope.

3-25 (b) A change or modification requested under Subsection (a)
 3-26 may not be implemented unless the executive administrator ~~[board]~~
 3-27 provides ~~[its]~~ written approval.

3-28 SECTION 7. Sections 17.933(a), (b), and (d), Water Code,
 3-29 are amended to read as follows:

3-30 (a) The board may use money in the economically distressed
 3-31 areas account to provide financial assistance to a political
 3-32 subdivision in the form of a loan, ~~[including]~~ a loan with zero
 3-33 interest, a grant, or other type of financial assistance to be
 3-34 determined by the board taking into consideration the information
 3-35 provided by Section 17.927(b)(7).

3-36 (b) In providing financial assistance to an applicant under
 3-37 this subchapter, the board may not provide to the applicant
 3-38 financial assistance for which repayment is not required in an
 3-39 amount that exceeds 50 percent of the total amount of the financial
 3-40 assistance ~~[plus interest on any amount that must be repaid],~~
 3-41 unless the board or the [Texas] Department of State Health Services
 3-42 determines ~~[issues a finding]~~ that a nuisance dangerous to the
 3-43 public health and safety exists resulting from water supply and
 3-44 sanitation problems in the area to be served by the proposed
 3-45 project. The board may provide the repayable portion of financial
 3-46 assistance from any financial assistance program for which the
 3-47 applicant is eligible. The ~~[board and the]~~ applicant shall provide
 3-48 to the board or the [Texas] Department of State Health Services
 3-49 information necessary to make a determination, and the board and
 3-50 the [Texas] Department of State Health Services may enter into
 3-51 necessary memoranda of understanding to carry out this subsection.

3-52 (d) In determining the amount and form of financial
 3-53 assistance and the amount and form of repayment, if any, the board
 3-54 shall consider:

3-55 (1) rates, fees, and charges that the average customer
 3-56 to be served by the project will be able to pay ~~[based on a~~
 3-57 ~~comparison of what other families of similar income who are~~
 3-58 ~~similarly situated pay for comparable services];~~

3-59 (2) sources of funding available to the political
 3-60 subdivision from federal and private funds and from other state
 3-61 funds;

3-62 (3) any local funds of the political subdivision to be
 3-63 served by the project if the economically distressed area to be
 3-64 served by the board's financial assistance is within the boundary
 3-65 of the political subdivision; and

3-66 (4) the just, fair, and reasonable charges for water
 3-67 and wastewater service as provided in this code.

3-68 SECTION 8. Subchapter K, Chapter 17, Water Code, is amended
 3-69 by adding Section 17.937 to read as follows:

4-1 Sec. 17.937. REPORTING AND TRANSPARENCY REQUIREMENTS.

4-2 (a) Annually, the board shall post on the board's Internet website
4-3 a report detailing each project for which the board has provided
4-4 financial assistance under this subchapter.

4-5 (b) The report must include:

4-6 (1) a description of each project;

4-7 (2) the location of each project;

4-8 (3) the number of residents served by each project;

4-9 (4) the amount of financial assistance provided or

4-10 anticipated to be provided for each project;

4-11 (5) a statement of whether each project has been

4-12 completed and, if not, the expected completion date;

4-13 (6) the date on which each appropriate political

4-14 subdivision adopted the model rules developed under Section 16.343;

4-15 and

4-16 (7) the date on which each appropriate political

4-17 subdivision certified that it enforces the applicable model rules

4-18 developed under Section 16.343 or a description of measures taken

4-19 to mitigate any deficiencies in compliance.

4-20 SECTION 9. Section 17.933(b-1), Water Code, is repealed.

4-21 SECTION 10. The Texas Water Development Board is required

4-22 to implement a provision of this Act only if the legislature

4-23 appropriates money specifically for that purpose. If the

4-24 legislature does not appropriate money specifically for that

4-25 purpose, the board may, but is not required to, implement a

4-26 provision of this Act using other appropriations available for that

4-27 purpose.

4-28 SECTION 11. This Act takes effect on the date on which the

4-29 constitutional amendment proposed by the 86th Legislature, Regular

4-30 Session, 2019, providing for the issuance of additional general

4-31 obligation bonds by the Texas Water Development Board in an amount

4-32 not to exceed \$400 million to provide financial assistance for the

4-33 development of certain projects in economically distressed areas

4-34 takes effect. If that amendment is not approved by the voters, this

4-35 Act has no effect.

4-36 * * * * *