

By: Zwiener

H.B. No. 2350

Substitute the following for H.B. No. 2350:

By: Price

C.S.H.B. No. 2350

A BILL TO BE ENTITLED

1 AN ACT
2 relating to financial assistance provided to political
3 subdivisions by the Texas Water Development Board for nature-based
4 water quality enhancement projects.

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

6 SECTION 1. Section 15.604(b), Water Code, is amended to
7 read as follows:

8 (b) The board shall adopt rules specifying the manner in
9 which any additional state revolving fund hereafter established by
10 the board, or any capitalization grant under the state water
11 pollution control revolving fund, the safe drinking water revolving
12 fund, or any additional state revolving fund, may be used to provide
13 financial assistance to an eligible applicant for public works.
14 Such rules shall require financial assistance to be provided for
15 the purpose or purposes and on the terms authorized by the federal
16 legislation or federal agency program under which the additional
17 state revolving fund was established or the capitalization grant
18 was awarded. To the extent not prohibited by board rule, any
19 additional state revolving fund established under this subchapter
20 may be used to provide financial assistance for projects described
21 by Section 17.280.

22 SECTION 2. Section 17.001(10), Water Code, is amended to
23 read as follows:

24 (10) "Water quality enhancement" means the

1 construction of treatment works or projects described by Section
2 17.280 by political subdivisions with loans provided by water
3 quality enhancement funds.

4 SECTION 3. Section 17.271, Water Code, is amended to read as
5 follows:

6 Sec. 17.271. PURPOSE. The purpose of this subchapter is to
7 provide for making loans of water quality enhancement funds
8 authorized by Article III, Sections 49-d-1, 49-d-2, 49-d-6, and
9 49-d-7, of the Texas Constitution to political subdivisions of the
10 state for water quality enhancement [~~the construction of treatment~~
11 ~~works~~].

12 SECTION 4. Section 17.272, Water Code, is amended to read as
13 follows:

14 Sec. 17.272. FINANCIAL ASSISTANCE. The board may use water
15 quality enhancement funds to provide financial assistance to
16 political subdivisions for purposes of water quality enhancement,
17 including projects proposed under the water resource restoration
18 program established under Section 17.280.

19 SECTION 5. Section 17.274, Water Code, is amended by adding
20 Subsection (b) to read as follows:

21 (b) An application for financial assistance administered
22 through the water resource restoration program established under
23 Section 17.280 must include a copy of a resolution approving the
24 proposed project adopted by the governing body of a municipality or
25 special purpose district or the commissioners court of a county in
26 which the proposed project is to be located.

27 SECTION 6. Section 17.275, Water Code, is amended to read as

1 follows:

2 Sec. 17.275. CONSIDERATIONS IN PASSING ON APPLICATION. In
3 passing on an application from a political subdivision for
4 financial assistance for water quality enhancement purposes, the
5 board shall consider:

6 (1) the water quality needs of the waters into which
7 effluent from the treatment works will be discharged, the benefit
8 of the treatment works to such water quality needs, the
9 relationship of the treatment works to the overall, statewide water
10 quality needs; and the relationship of the treatment works to water
11 quality planning for the state;

12 (2) the availability of revenue to the political
13 subdivision, from all sources, for the ultimate repayment of the
14 cost of the treatment works, including interest; ~~and~~

15 (3) whether the political subdivision has been
16 designated, pursuant to Section 26.082 of this code, to provide a
17 regional system to serve all or part of the waste disposal needs of
18 a defined area, the development of such systems being the declared
19 policy of the legislature; and

20 (4) whether the political subdivision proposes a
21 project through the water resource restoration program established
22 under Section 17.280.

23 SECTION 7. Section 17.279, Water Code, is amended to read as
24 follows:

25 Sec. 17.279. LIMITATION ON USE OF FUNDS. If there is
26 insufficient money available to fund all applications under this
27 subchapter, the board shall give preference to applications for

1 political subdivisions that:

2 (1) the board finds cannot reasonably finance the
3 treatment works without assistance from the state;

4 (2) propose a project through the water resource
5 restoration program established under Section 17.280 that provides
6 a significant improvement to water quality in the relevant
7 watershed; or

8 (3) propose a project through the water resource
9 restoration program established under Section 17.280 that affects a
10 disadvantaged community, as determined by board rule.

11 SECTION 8. Subchapter F, Chapter 17, Water Code, is amended
12 by adding Section 17.280 to read as follows:

13 Sec. 17.280. WATER RESOURCE RESTORATION PROGRAM. (a) In
14 this section:

15 (1) "Program" means the water resource restoration
16 program.

17 (2) "Project" means nature-based infrastructure that
18 will improve water quality in the political subdivision where the
19 project is located and includes the acquisition of real property
20 and the use of nature-based water treatment technologies.

21 (b) The board shall establish and administer the water
22 resource restoration program to assist in enhancing water quality
23 in the state through the provision of financial assistance to
24 political subdivisions for locally directed projects.

25 (c) The board shall establish a process by which a political
26 subdivision may combine a project funded through a state revolving
27 fund with a project under the program so that the total cost of both

1 projects does not exceed the cost of the project funded through the
2 state revolving fund.

3 (d) A proposed project must be compatible with the goals of
4 the program and include the application of best management
5 practices for the primary purpose of water quality protection and
6 improvement. A proposed project may include:

7 (1) the preservation or restoration of regional scale
8 natural landscape features, including forests, floodplains, and
9 wetlands;

10 (2) practices that reduce impervious cover in a
11 watershed;

12 (3) practices that increase water infiltration and
13 retention, including the use of bioretention, trees, green roofs,
14 permeable pavements, rain gardens, constructed wetlands, and
15 cisterns;

16 (4) the implementation of green streets in public
17 rights-of-way;

18 (5) the implementation of a comprehensive street tree
19 or urban forestry program to manage stormwater and enhance tree
20 health;

21 (6) the expanded use of tree box filters;

22 (7) stormwater collection and distribution systems,
23 including cisterns, separate stormwater sewer systems, and
24 downspout disconnection systems that use onsite stormwater
25 management and remove stormwater from sewer systems;

26 (8) soil quality enhancement activities;

27 (9) the removal and replacement of turf with native

1 grasses and vegetation that improve water infiltration;

2 (10) the establishment or restoration of permanent
3 riparian buffers, floodplains, wetlands, and other natural
4 features including vegetative buffers, grass swales, soft
5 bioengineered stream banks, and stream daylighting;

6 (11) the management of wetlands to improve water
7 quality and support water infiltration and retention; and

8 (12) sustainable landscaping to improve hydrologic
9 processes.

10 (e) A proposed project may not include:

11 (1) passive recreation activities and trails
12 including bike trails, playgrounds, athletic fields, picnic
13 tables, and picnic grounds;

14 (2) non-permeable surface parking lots;

15 (3) stormwater ponds or dirt-lined detention basins
16 that serve an extended or filtration function;

17 (4) in-line and end-of-pipe treatment systems that
18 only filter or detain stormwater without the use of natural plants
19 and trees;

20 (5) underground stormwater control and treatment
21 devices, including hydrodynamic separators, baffle systems for
22 grit, trash removal, and oil and grease separators;

23 (6) stormwater conveyance systems, including pipes
24 and concrete channels, that are not soil or vegetation based;

25 (7) hardening, channelizing, dredging, or
26 straightening streams or stream banks;

27 (8) street sweepers, sewer cleaners, and vacuum trucks

1 unless they support nature-based infrastructure projects; and

2 (9) supplemental environmental projects required as a
3 part of a consent decree.

4 (f) A project may not include the acquisition of property,
5 an interest in property, or improvements to property through the
6 use of eminent domain.

7 (g) The board shall adopt rules to establish a means of
8 prioritizing projects in disadvantaged communities. The board
9 shall include the following criteria to determine whether a
10 political subdivision seeking financing under this section is a
11 disadvantaged community:

12 (1) median household income in the community as a
13 percentage of statewide household income;

14 (2) annual water and sewer rates as a percentage of
15 median household income in the community;

16 (3) families below the poverty level in the community
17 as a percentage of the statewide number of families below the
18 poverty level;

19 (4) per capita outstanding debt of the wastewater
20 system serving the community as a percentage of median household
21 income in the community; and

22 (5) cost-effectiveness calculated by determining
23 construction costs of the proposed project per user.

24 (h) An application for the financing of a project under this
25 section must include a viability assessment that includes:

26 (1) the ability of the applicant to provide proper
27 oversight and management through a certified operator; and

1 (2) the financial ability of the users to support the
2 long-term maintenance of the project.

3 (i) The board shall adopt rules necessary for the
4 implementation and administration of this section.

5 SECTION 9. Not later than September 1, 2022, the Texas Water
6 Development Board shall adopt rules necessary to implement Section
7 17.280, Water Code, as added by this Act.

8 SECTION 10. This Act takes effect September 1, 2021.