

By: Zaffirini

S.B. No. 1746

A BILL TO BE ENTITLED

AN ACT

1  
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  
10 a 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 will create an option to bundle a water  
26 resource restoration project with a state revolving fund project  
27 so the total cost of both projects to the applicant will be no more

1 than the cost of the state revolving fund project alone.

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

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

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

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

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

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

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

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

25 (8) soil quality enhancement activities;

26 (9) the removal and replacement of turf with native  
27 grasses and vegetation that improve water infiltration;

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

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

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

9           (e) A proposed project may not include:

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

13           (2) non-permeable surface parking lots;

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

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

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

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

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

26           (8) street sweepers, sewer cleaners, and vacuum trucks  
27 unless they support nature-based infrastructure projects; and

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

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

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

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

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

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

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

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

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

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

27           (2) the financial ability of the users to support the

1 long-term maintenance of the project.

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

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

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