

By: Geren

H.B. No. 1378

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain duties and information regarding water
3 development matters in the state.

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

5 SECTION 1. Sections 15.005(a), (b), and (d), Water Code,
6 are amended to read as follows:

7 (a) On submission of a project application under this
8 chapter, the executive administrator [~~development fund manager~~]
9 shall determine if the application includes a project that will
10 have flood control as one of its purposes and if the political
11 subdivision submitting the application includes all of the
12 watershed in which the project is to be located.

13 (b) If the executive administrator [~~development fund~~
14 ~~manager~~] finds that the application includes a project that has
15 flood control as one of its purposes and that the watershed in which
16 the project is located is partially located outside the political
17 subdivision making the application, the executive administrator
18 [~~development fund manager~~] shall require the applicant to submit a
19 written memorandum of understanding relating to the management of
20 the watershed in which the project is to be located.

21 (d) The board shall not consider any application for which a
22 memorandum of understanding must be filed under this section until
23 that memorandum of understanding is filed with the executive
24 administrator [~~development fund manager~~].

1 SECTION 2. Section 16.012(m), Water Code, is amended to
2 read as follows:

3 (m) The executive administrator may conduct surveys of
4 entities using groundwater and surface water for municipal,
5 industrial, power generation, or mining purposes at intervals
6 determined appropriate by the executive administrator to gather
7 data to be used for long-term water supply planning. Recipients of
8 the survey shall complete and return the survey to the executive
9 administrator. A person who fails to timely complete and return the
10 survey is not eligible for funding from the board for board programs
11 and is ineligible to obtain permits, permit amendments, or permit
12 renewals from the commission under Chapter 11. A person who fails
13 to complete and return the survey commits an offense that is
14 punishable as a Class C misdemeanor. [~~Surveys obtained by the board~~
15 ~~from nongovernmental entities are excepted from the requirements of~~
16 ~~Section 552.021, Government Code, unless otherwise directed in~~
17 ~~writing by the person completing the survey.~~] This subsection does
18 not apply to survey information regarding windmills used for
19 domestic and livestock use.

20 SECTION 3. Section 16.012, Water Code, is amended by adding
21 Subsection (n) to read as follows:

22 (n) Information collected through field investigations on a
23 landowner's property by the executive administrator after
24 September 1, 2003, solely for use in the development of groundwater
25 availability models under Subsection (1) of this section that
26 reveals site-specific information about such landowner is not
27 subject to Chapter 552, Government Code, and may not be disclosed to

1 any person outside the board if the landowner on whose land the
2 information is collected has requested in writing that such
3 information be deemed confidential. If a landowner requests that
4 his or her information not be disclosed, the executive
5 administrator may release information regarding groundwater
6 information only if the information is summarized in a manner that
7 prevents the identification of an individual or specific parcel of
8 land and the landowner. This subsection does not apply to a parcel
9 of land that is publicly owned.

10 SECTION 4. Sections 16.053(d) and (e), Water Code, are
11 amended to read as follows:

12 (d) The board shall provide guidelines for the
13 consideration of existing regional planning efforts by regional
14 water planning groups. The board shall provide guidelines for the
15 format in which information shall be presented in the regional
16 water plans. [~~The board by rule shall require a holder of a surface
17 water permit, a certified filing, or a certificate of adjudication
18 for surface water, a holder of a permit for the export of
19 groundwater from a groundwater conservation district, a retail
20 public water supplier, a wholesale water provider, an irrigation
21 district, and any other person who is transporting groundwater or
22 surface water 20 miles or more to report to the board information on
23 certain water pipelines and other facilities that can be used for
24 water conveyance. Nothing in the initial planning effort shall
25 prevent development of a management plan or project where local or
26 regional needs require action prior to completion of the initial
27 regional water plan under this section.]~~

1 (e) Each regional water planning group shall submit to the
2 board a regional water plan that:

3 (1) is consistent with the guidance principles for the
4 state water plan adopted by the board under Section 16.051(d);

5 (2) provides information based on data provided or
6 approved by the board in a format consistent with the guidelines
7 provided by the board under Subsection (d);

8 (3) identifies:

9 (A) each source of water supply in the regional
10 water planning area in accordance with the guidelines provided by
11 the board under Subsections (d) and (f);

12 (B) factors specific to each source of water
13 supply to be considered in determining whether to initiate a
14 drought response; and

15 (C) actions to be taken as part of the response;
16 [~~and~~

17 [~~(D) information on water pipelines and other
18 facilities that can be used for water conveyance, including, but
19 not limited to, currently used and abandoned oil, gas, and water
20 pipelines, as provided by board rules and guidelines,~~]

21 (4) has specific provisions for water management
22 strategies to be used during a drought of record;

23 (5) includes but is not limited to consideration of
24 the following:

25 (A) any existing water or drought planning
26 efforts addressing all or a portion of the region;

27 (B) certified groundwater conservation district

1 management plans and other plans submitted under Section 16.054;

2 (C) all potentially feasible water management
3 strategies, including but not limited to improved conservation,
4 reuse, and management of existing water supplies, acquisition of
5 available existing water supplies, and development of new water
6 supplies;

7 (D) protection of existing water rights in the
8 region;

9 (E) opportunities for and the benefits of
10 developing regional water supply facilities or providing regional
11 management of water supply facilities;

12 (F) appropriate provision for environmental
13 water needs and for the effect of upstream development on the bays,
14 estuaries, and arms of the Gulf of Mexico and the effect of plans on
15 navigation;

16 (G) provisions in Section 11.085(k)(1) if
17 interbasin transfers are contemplated;

18 (H) voluntary transfer of water within the region
19 using, but not limited to, regional water banks, sales, leases,
20 options, subordination agreements, and financing agreements; and

21 (I) emergency transfer of water under Section
22 11.139, including information on the part of each permit, certified
23 filing, or certificate of adjudication for nonmunicipal use in the
24 region that may be transferred without causing unreasonable damage
25 to the property of the nonmunicipal water rights holder;

26 (6) identifies river and stream segments of unique
27 ecological value and sites of unique value for the construction of

1 reservoirs that the regional water planning group recommends for
2 protection under Section 16.051;

3 (7) assesses the impact of the plan on unique river and
4 stream segments identified in Subdivision (6) if the regional water
5 planning group or the legislature determines that a site of unique
6 ecological value exists; and

7 (8) describes the impact of proposed water projects on
8 water quality.

9 SECTION 5. Section 17.183, Water Code, is amended to read as
10 follows:

11 Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. The
12 governing body of each political subdivision receiving financial
13 assistance from the board shall require in all contracts for the
14 construction of a project:

15 (1) that each bidder furnish a bid guarantee
16 equivalent to five percent of the bid price;

17 (2) that each contractor awarded a construction
18 contract furnish performance and payment bonds:

19 (A) the performance bond shall include without
20 limitation guarantees that work done under the contract will be
21 completed and performed according to approved plans and
22 specifications and in accordance with sound construction
23 principles and practices; and

24 (B) the performance and payment bonds shall be in
25 a penal sum of not less than 100 percent of the contract price and
26 remain in effect for one year beyond the date of approval by the
27 engineer of the political subdivision; and

1 (3) that payment be made in partial payments as the
2 work progresses;

3 (4) that each partial payment shall not exceed 95
4 percent of the amount due at the time of the payment as shown by the
5 engineer of the project, but, if the project is substantially
6 complete, a partial release of the five percent retainage may be
7 made by the political subdivision with approval of the executive
8 administrator;

9 (5) that payment of the retainage remaining due upon
10 completion of the contract shall be made only after:

11 (A) approval by the engineer for the political
12 subdivision as required under the bond proceedings;

13 (B) approval by the governing body of the
14 political subdivision by a resolution or other formal action; and

15 (C) certification by the executive administrator
16 [~~development fund manager~~] in accordance with the rules of the
17 board that the work to be done under the contract has been completed
18 and performed in a satisfactory manner and in accordance with sound
19 engineering principles and practices;

20 (6) that no valid approval may be granted unless the
21 work done under the contract has been completed and performed in a
22 satisfactory manner according to approved plans and
23 specifications; and

24 (7) that, if a political subdivision receiving
25 financial assistance under Subchapter K of this chapter, labor
26 from inside the political subdivision be used to the extent
27 possible.

1 SECTION 6. Section 17.276(a), Water Code, is amended to
2 read as follows:

3 (a) After an application is received for financial
4 assistance, the executive administrator [~~development fund manager~~]
5 shall submit the application to the board together with comments
6 and recommendations concerning the best method of making financial
7 assistance available.

8 SECTION 7. Section 11.155(c), Water Code, is repealed.

9 SECTION 8. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2003.