

1-1 By: Lucio, Hinojosa, Perry S.B. No. 2140
 1-2 (In the Senate - Filed March 10, 2017; March 28, 2017, read
 1-3 first time and referred to Committee on Agriculture, Water & Rural
 1-4 Affairs; April 27, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
 1-6 April 27, 2017, 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. 2140 By: Rodríguez

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. The heading to Subchapter K, Chapter 17, Water
 1-24 Code, is amended to read as follows:

1-25 SUBCHAPTER K. ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR
 1-26 WATER SUPPLY, ~~AND~~ SEWER SERVICE, AND RESIDENTIAL DRAINAGE
 1-27 PROJECTS

1-28 SECTION 2. Sections 17.921(1) and (2), Water Code, are
 1-29 amended to read as follows:

1-30 (1) "Economically distressed area" means an area in
 1-31 which:

1-32 (A) water supply, ~~or~~ sewer, or residential
 1-33 drainage services are inadequate to meet minimal needs of
 1-34 residential users as defined by board rules;

1-35 (B) financial resources are inadequate to
 1-36 provide water supply, ~~or~~ sewer, or residential drainage services
 1-37 that will satisfy those needs; and

1-38 (C) an established residential subdivision was
 1-39 located on June 1, 2005, as determined by the board.

1-40 (2) "Financial assistance" means the funds provided by
 1-41 the board to political subdivisions for water supply, ~~and~~ sewer,
 1-42 and residential drainage services under this subchapter.

1-43 SECTION 3. Section 17.922, Water Code, is amended to read as
 1-44 follows:

1-45 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically
 1-46 distressed areas account may be used by the board to provide
 1-47 financial assistance to political subdivisions for the
 1-48 construction, acquisition, or improvement of water supply, ~~and~~
 1-49 sewer, and residential drainage services, including providing
 1-50 funds from the account for the state's participation in federal
 1-51 programs that provide assistance to political subdivisions.

1-52 (b) To the extent practicable, the board shall use the funds
 1-53 in the economically distressed areas account in conjunction with
 1-54 the other financial assistance available through the board to
 1-55 encourage the use of cost-effective water supply, ~~and~~ wastewater,
 1-56 and residential drainage systems, including regional systems, to
 1-57 maximize the long-term economic development of counties eligible
 1-58 for financial assistance under the economically distressed areas
 1-59 program. Any savings derived from the construction of a regional
 1-60 system that includes or serves an economically distressed area
 1-61 project shall be factored into the board's determination of
 1-62 financial assistance for the economically distressed area in a

2-1 manner that assures the economically distressed area receives
2-2 appropriate benefits from the savings. In no event shall financial
2-3 assistance provided from the economically distressed areas account
2-4 be used to provide water supply, ~~or~~ wastewater, or residential
2-5 drainage service to any area that is not an economically distressed
2-6 area.

2-7 SECTION 4. Subchapter K, Chapter 17, Water Code, is amended
2-8 by adding Section 17.9226 to read as follows:

2-9 Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. The
2-10 board shall:

2-11 (1) work to maximize the effectiveness of the
2-12 additional general obligation bonds authorized by Section
2-13 49-d-10(a-1), Article III, Texas Constitution, by using the
2-14 additional bonds in conjunction with other sources of financial
2-15 assistance, including nonpublic funds, to provide financial
2-16 assistance to political subdivisions for the construction,
2-17 acquisition, or improvement of water supply, sewer, and residential
2-18 drainage services; and

2-19 (2) use the additional general obligation bonds
2-20 authorized by Section 49-d-10(a-1), Article III, Texas
2-21 Constitution, to promote and support public-private partnerships
2-22 that the board determines:

2-23 (A) are financially viable;

2-24 (B) will diversify the methods of financing
2-25 available for water supply, sewer, and residential drainage
2-26 services; and

2-27 (C) will reduce reliance on the issuance of bonds
2-28 supported with general revenue.

2-29 SECTION 5. Sections 17.927(a) and (b), Water Code, are
2-30 amended to read as follows:

2-31 (a) A political subdivision may apply to the board for
2-32 financial assistance under this subchapter by submitting an
2-33 application together with a plan for providing water supply, ~~and~~
2-34 sewer, or residential drainage services to an economically
2-35 distressed area for which the financial assistance is to be used.

2-36 (b) The application and plan must include:

2-37 (1) the name of the political subdivision and its
2-38 principal officers;

2-39 (2) a citation of the law under which the political
2-40 subdivision was created and operates;

2-41 (3) a project plan, prepared and certified by an
2-42 engineer registered to practice in this state, that must:

2-43 (A) describe the proposed planning, design, and
2-44 construction activities necessary to provide water supply, ~~and~~
2-45 sewer, or residential drainage services that meet minimum state
2-46 standards; and

2-47 (B) identify the households to which the water
2-48 supply, ~~and~~ sewer, or residential drainage services will be
2-49 provided;

2-50 (4) a budget that estimates the total cost of
2-51 providing water supply, ~~and~~ sewer, or residential drainage
2-52 services to the economically distressed area and a proposed
2-53 schedule and method for repayment of financial assistance
2-54 consistent with board rules and guidelines;

2-55 (5) a description of the existing water supply, ~~and~~
2-56 sewer, or residential drainage facilities located in the area to be
2-57 served by the proposed project, including a statement prepared and
2-58 certified by an engineer registered to practice in this state that
2-59 the facilities do not meet minimum state standards;

2-60 (6) documentation that the appropriate political
2-61 subdivision has adopted the model rules developed under Section
2-62 16.343;

2-63 (7) information identifying the median household
2-64 income for the area to be served by the proposed project; and

2-65 (8) the total amount of assistance requested from the
2-66 economically distressed areas account.

2-67 SECTION 6. Subchapter K, Chapter 17, Water Code, is amended
2-68 by adding Section 17.9275 to read as follows:

2-69 Sec. 17.9275. PRIORITIZATION OF PROJECTS BY BOARD.

2-70 (a) The board shall prioritize projects for the purpose of
2-71 providing financial assistance under this subchapter.

3-1 (b) The board shall establish a system for prioritizing
3-2 projects for which financial assistance is sought from the board.
3-3 The system must include a standard for the board to apply in
3-4 determining whether a project qualifies for financial assistance at
3-5 the time the application for financial assistance is filed with the
3-6 board.

3-7 (c) The board shall give the highest consideration to
3-8 projects that will have a substantial effect, including projects
3-9 that will serve an area for which the Department of State Health
3-10 Services has issued a finding that a nuisance dangerous to the
3-11 public health and safety exists resulting from water supply and
3-12 sanitation problems.

3-13 (d) In addition to the criteria provided by Subsection (c),
3-14 the board must also consider at least the following criteria in
3-15 prioritizing projects:

3-16 (1) the local contribution to be made to finance the
3-17 project, including the up-front capital to be provided by the
3-18 applicant;

3-19 (2) the financial capacity of the applicant to repay
3-20 the financial assistance provided;

3-21 (3) the ability of the board and the applicant to
3-22 timely leverage state financing with local and federal funding;

3-23 (4) whether there is an emergency need for the
3-24 project, taking into consideration whether the applicant is
3-25 included at the time of the application on the list maintained by
3-26 the commission of local public water systems that have a water
3-27 supply that will last less than 180 days without additional
3-28 rainfall;

3-29 (5) whether the applicant is ready to proceed with the
3-30 project at the time of the application, including whether:

3-31 (A) all preliminary planning and design work
3-32 associated with the project has been completed; and

3-33 (B) the applicant is able to begin implementing
3-34 or constructing the project; and

3-35 (6) the cost per connection of the project.

3-36 SECTION 7. Section 17.928(c), Water Code, is amended to
3-37 read as follows:

3-38 (c) If an applicant includes a proposal for treatment or
3-39 residential drainage works, the board may not deliver funds for the
3-40 treatment or residential drainage works until the applicant has
3-41 received a permit for construction and operation of the treatment
3-42 or residential drainage works and approval of the plans and
3-43 specifications from the commission or other applicable permitting
3-44 authority or unless such a permit is not required by the commission
3-45 or other applicable permitting authority.

3-46 SECTION 8. Section 17.929(a), Water Code, is amended to
3-47 read as follows:

3-48 (a) In passing on an application for financial assistance,
3-49 the board shall consider:

3-50 (1) the need of the economically distressed area to be
3-51 served by the water supply, ~~and~~ sewer, or residential drainage
3-52 services in relation to the need of other political subdivisions
3-53 requiring financial assistance under this subchapter and the
3-54 relative costs and benefits of all applications;

3-55 (2) the availability to the area to be served by the
3-56 project of revenue or financial assistance from alternative sources
3-57 for the payment of the cost of the proposed project;

3-58 (3) the financing of the proposed water supply, ~~and~~
3-59 sewer, or residential drainage project, including consideration
3-60 of:

3-61 (A) the budget and repayment schedule submitted
3-62 under Section 17.927(b)(4);

3-63 (B) other items included in the application
3-64 relating to financing; and

3-65 (C) other financial information and data
3-66 available to the board;

3-67 (4) whether the county and other appropriate political
3-68 subdivisions have adopted model rules pursuant to Section 16.343
3-69 and the manner of enforcement of model rules; and

3-70 (5) the feasibility of achieving cost savings by
3-71 providing a regional facility for water supply, ~~or~~ wastewater, or

4-1 residential drainage service and the feasibility of financing the
4-2 facility by using funds from the economically distressed areas
4-3 account or any other financial assistance.

4-4 SECTION 9. Sections 17.933(b) and (d), Water Code, are
4-5 amended to read as follows:

4-6 (b) In providing financial assistance to an applicant under
4-7 this subchapter, the board may not provide to the applicant
4-8 financial assistance for which repayment is not required in an
4-9 amount that exceeds 50 percent of the total amount of the financial
4-10 assistance plus interest on any amount that must be repaid, unless
4-11 the [Texas] Department of State Health Services issues a finding
4-12 that a nuisance dangerous to the public health and safety exists
4-13 resulting from water supply and sanitation problems in the area to
4-14 be served by the proposed project. The board and the applicant
4-15 shall provide to the [Texas] Department of State Health Services
4-16 information necessary to make a determination, and the board and
4-17 the [Texas] Department of State Health Services may enter into
4-18 necessary memoranda of understanding to carry out this subsection.

4-19 (d) In determining the amount and form of financial
4-20 assistance and the amount and form of repayment, if any, the board
4-21 shall consider:

4-22 (1) rates, fees, and charges that the average customer
4-23 to be served by the project will be able to pay [~~based on a~~
4-24 ~~comparison of what other families of similar income who are~~
4-25 ~~similarly situated pay for comparable services];~~

4-26 (2) sources of funding available to the political
4-27 subdivision from federal and private funds and from other state
4-28 funds;

4-29 (3) any local funds of the political subdivision to be
4-30 served by the project if the economically distressed area to be
4-31 served by the board's financial assistance is within the boundary
4-32 of the political subdivision; and

4-33 (4) the just, fair, and reasonable charges for water,
4-34 [and] wastewater, and residential drainage service as provided in
4-35 this code.

4-36 SECTION 10. Section 17.936(d), Water Code, is amended to
4-37 read as follows:

4-38 (d) The provider of water or wastewater utility or
4-39 residential drainage service to an economically distressed area may
4-40 recover from a developer or owner of an undeveloped lot
4-41 economically distressed areas program impact fees as provided by
4-42 rules adopted by the board.

4-43 SECTION 11. Subchapter K, Chapter 17, Water Code, is
4-44 amended by adding Section 17.937 to read as follows:

4-45 Sec. 17.937. REPORTING AND TRANSPARENCY REQUIREMENTS.

4-46 (a) The board shall annually post on the board's Internet website
4-47 a report detailing each project for which the board has provided
4-48 financial assistance under this subchapter.

4-49 (b) The report must include:

4-50 (1) a description of each project;

4-51 (2) the location of each project;

4-52 (3) the number of residents served by each project;

4-53 (4) the amount of financial assistance provided or
4-54 anticipated to be provided for each project; and

4-55 (5) a statement of whether each project has been
4-56 completed and, if not, the expected completion date.

4-57 SECTION 12. Section 17.933(b-1), Water Code, is repealed.

4-58 SECTION 13. This Act takes effect on the date on which the
4-59 constitutional amendment proposed by the 85th Legislature, Regular
4-60 Session, 2017, providing for the issuance of additional general
4-61 obligation bonds by the Texas Water Development Board to provide
4-62 financial assistance for the development of certain projects in
4-63 economically distressed areas takes effect. If that amendment is
4-64 not approved by the voters, this Act has no effect.

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