

CHAPTER 477

H.B. No. 1269

AN ACT

relating to the powers of the Texas Water Development Board and the executive administrator of the board.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 6.183, Water Code, is amended to read as follows:

Sec. 6.183. EMPLOYMENT OF PERSONNEL. The executive administrator shall employ necessary personnel for the board. *The executive administrator may delegate powers and duties to deputy executive administrators.*

SECTION 2. Section 15.011(b), Water Code, is amended to read as follows:

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C of this chapter, the storage acquisition fund created under Subchapter E of this chapter, ~~and~~ the research and planning fund created under Subchapter F of this chapter, and the hydrographic survey account created under Subchapter M [L] of this chapter, provided the hydrographic survey account transfer does not exceed \$425,000.

SECTION 3. Subsections 15.012(c) and (d), Water Code, are amended to read as follows:

(c) Money appropriated to the fund by the legislature for a specific purpose stated in Subchapter C, E, ~~or~~ F, or M [L] of this chapter shall be placed in the appropriate fund created by that subchapter.

(d) The money held in the fund *may* [will] be invested as provided by law for investment of money *under Section 404.024, Government Code* [~~in the water development fund in accordance with procedures in Chapter 401, Acts of the 60th Legislature, 1967, as amended (Article 6252-5a, Vernon's Texas Civil Statutes)~~].

SECTION 4. Subchapter L, Chapter 15, Water Code, as added by Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991, is relettered as Subchapter M, Chapter 15, Water Code, in order to eliminate duplicate citations, as follows:

SUBCHAPTER M [L]. HYDROGRAPHIC SURVEY PROGRAM

SECTION 5. Section 15.431(c), Water Code, is amended to read as follows:

(c) Money in the agricultural trust fund may be invested in the manner provided for investment of money *under Section 404.024, Government Code* [~~in the permanent school fund~~].

SECTION 6. Section 15.602(1), Water Code, is amended to read as follows:

(1) "Authorized investments" means[;

~~[(A) direct obligations of the United States;~~

~~[(B) other obligations unconditionally guaranteed by the United States;~~

~~[(C) obligations of the State of Texas;~~

~~[(D) obligations of cities, counties, and other political subdivisions of the state, except bonds issued to finance a project or treatment works described in this chapter; and~~

~~[(E)] any authorized investments described in Section 404.024, Government Code [2.014, Chapter 240, Acts of the 69th Legislature, Regular Session, 1985 (Article 4393-1, Vernon's Texas Civil Statutes)].~~

SECTION 7. Section 15.803, Water Code, is amended to read as follows:

Sec. 15.803. USE OF ACCOUNT. Money in the account may be used only to pay the costs of surveys, *the costs of insurance for watercraft and capital equipment*, and the costs of capital equipment and personnel necessary to administer the program.

SECTION 8. Section 17.083, Water Code, is amended to read as follows:

Sec. 17.083. INVESTMENT OF RESERVE MONEY. The board may invest any money credited to the development fund and not immediately required for its intended use and money in the interest and sinking fund and in the economically distressed areas interest and sinking fund, including the reserve portions of the interest and sinking fund and the economically distressed areas interest and sinking fund, in investments authorized by law for state deposits *under Section 404.024, Government Code*.

SECTION 9. Section 17.124, Water Code, is amended to read as follows:

Sec. 17.124. CONSIDERATIONS IN PASSING ON APPLICATIONS. [~~(a)~~] In passing on an application from a political subdivision for financial assistance for a water supply project, the board shall consider:

(1) the needs of the area to be served by the water supply project, [~~and~~] the benefit of the water supply project to the area, *the relationship of the water supply project to the overall, statewide water needs, and the relationship of the water supply project to the state water plan*; and [~~in relation to the needs of other areas requiring state assistance in any manner and the benefits of those water supply projects to the other areas;~~]

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the water supply project, including interest[;]

~~[(3) whether the political subdivision can reasonably finance the water supply project without assistance from the state;~~

~~[(4) the relationship of the water supply project to the overall, statewide water needs; and~~

~~[(5) the relationship of the water supply project to the state water plan.~~

~~[(b) In passing on an application for financial assistance for regional facilities, water facilities for a political subdivision that is converting from the use of groundwater to the use of surface water, or a water supply project that includes flood control, the board shall consider the factors set out for political subdivisions in Subsection (a) of this section except the board is not required to consider the factor set out in Subdivision (3) of that subsection.]~~

SECTION 10. Section 17.125(a), Water Code, is amended to read as follows:

(a) The board by resolution may approve an application if, after considering the factors listed in Section 17.124 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state *assistance* [~~participation~~] in the water supply project;

(2) [~~that the political subdivision cannot reasonably finance the water supply project without state assistance in the amount finally approved by the board;~~] and

[(3)] that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years.

SECTION 11. Section 17.126, Water Code, is repealed.

SECTION 12. Section 17.275, Water Code, is amended to read as follows:

Sec. 17.275. CONSIDERATIONS IN PASSING ON APPLICATION. [(a)] In passing on an application from a political subdivision for financial assistance for water quality enhancement purposes, the board shall consider:

(1) the water quality needs of the waters into which effluent from the treatment works will be discharged, [and] the benefit of the treatment works to such water quality needs, *the relationship of the treatment works to the overall, statewide water quality needs; and the relationship of the treatment works to water quality planning for the state; [in relation to the needs of other waters requiring state assistance in any manner and the benefits of those treatment works to the other waters;]*

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

(3) [~~whether the political subdivision can reasonably finance the treatment works without assistance from the state;~~

[(4) ~~the relationship of the treatment works to the overall, statewide water quality needs;~~

[(5) ~~the relationship of the treatment works to water quality planning for the state; and~~

[(6)] whether the political subdivision has been designated, pursuant to Section 26.082 of this code, to provide a regional system to serve all or part of the waste disposal needs of a defined area, the development of such systems being the declared policy of the legislature.

[(b) ~~In passing on an application for financial assistance for regional facilities, the board shall consider the factors set out for political subdivisions in Subsection (a) of this section except the board is not required to consider the factor set out in Subdivision (3) of that subsection.]~~

SECTION 13. Section 17.276(d) and (e), Water Code, is amended to read as follows:

(d) The *board* [~~commission~~] shall review and approve or disapprove plans and specifications for all *sewerage* [~~sewage~~] collection, treatment, and disposal systems for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended, *in a manner that will satisfy commission requirements for [for compliance with] design criteria and permit conditions that apply to construction activities. [established by the commission for sewerage systems. To avoid duplicate review and approval by two or more state agencies, review and approval of plans and specifications under this subsection by the Texas Department of Health is not required.]*

(e) [~~Except as provided by Subsection (d) of this section,~~] *The* [~~the~~] deliberations, proposals, decisions, and other actions of the board under this subchapter do not require the concurrence or approval of any other governmental agency, board, commission, council, political subdivision, or other governmental entity.

SECTION 14. Section 17.277, Water Code, is amended to read as follows:

Sec. 17.277. APPROVAL OF APPLICATION. (a) The board by resolution may approve an application if, after considering the factors listed in Section 17.275 of this code and any other relevant factors, the board finds:

[(1)] that the public interest will benefit from state *assistance* [~~participation~~] in the financing of the treatment works.[~~—and~~

~~[(2) that the political subdivision cannot reasonably finance the treatment works without state assistance in the amount finally approved by the board.]~~

~~(b) [In approving an application for financial assistance for regional facilities, the board shall make the finding required by Subsection (a)(1) of this section.~~

~~[(e)] Before the board grants the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Subdivision (23)(B), Section 17.001, of this code and that the board determines will meet reasonably anticipated local needs and conditions. The program may include *but is not limited to* any or all of the following:~~

- ~~(1) restrictions on discretionary water uses, such as lawn watering;~~
- ~~(2) plumbing code standards for water conservation in new building construction;~~
- ~~(3) retrofit programs to improve water-use efficiency in existing buildings;~~
- ~~(4) educational programs;~~
- ~~(5) universal metering;~~
- ~~(6) conservation-oriented water rate structures;~~
- ~~(7) drought contingency plans; and~~
- ~~(8) distribution system leak detection and repair.~~

~~(c) [(d)] The board may not require a program of water conservation to be adopted under Subsection (b) [(e)] of this section if:~~

- ~~(1) an emergency exists as determined by the board;~~
- ~~(2) the amount of financial assistance to be provided is \$500,000 or less; or~~
- ~~(3) the applicant demonstrates and the board finds that the submission of such a program is not reasonably necessary to facilitate conservation or conservation measures.~~

~~(d) [(e)] To the extent funds are available, the board shall establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation plans required by this section and other sections of this code.~~

~~(e) [(f)] If the political subdivision will utilize the project to furnish water or services to another political subdivision that in turn will furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the political subdivisions providing for establishment of a water conservation plan and other measures.~~

~~(f) [(g)] Rules adopted under this section must state the criteria for preparation, review, and enforcement of an applicant's conservation program.~~

SECTION 15. Section 17.899(a), Water Code, is amended to read as follows:

(a) The board may approve an application if, after considering the factors in Section 17.898 and other relevant factors, the board finds that:

- (1) the public interest would be served in granting the application;
- (2) a lender district has the ability to make conservation loans, manage a conservation loan program, and repay the loan to the board;
- (3) a borrower district has the ability to *repay* [~~prepay~~] the conservation loan; and
- (4) granting the application will further water conservation in the state.

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 30, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1269 on May 22, 1993, by a non-record vote; passed by the Senate, with amendments, on May 14, 1993: Yeas 29, Nays 0.

Approved June 9, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.