

## CHAPTER 844

H.B. No. 997

## AN ACT

relating to receipt of funds in the water assistance fund and water development fund, to furthering the implementation of the program to assist economically distressed areas, and to enhancing the economic development of economically distressed areas and border counties; declaring an emergency.

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

SECTION 1. The legislature finds that:

(a) an adequate water supply and wastewater infrastructure is necessary and integral to the long-term economic growth and industrial development in the counties eligible for funding under the economically distressed areas program;

(b) economically distressed areas, by definition; are located in counties where unemployment over the most recent three consecutive years averages 25 percent above the statewide average and where the per capita income for the most recent three consecutive years averaged 25 percent below the state average;

(c) the further implementation of the economically distressed areas program can provide greater benefits to the long-term economic growth of the areas eligible for such funding by considering the feasibility of regional facilities for water supply and wastewater service;

(d) innovative science and technologies have and will be further advanced through the use of funds provided by the economically distressed areas program; and

(e) the state, in cooperation with local governments in counties with economically distressed areas, working with the water research and technology community and with funds that may be received from the federal government has used and can continue to use the funds made available in the economically distressed areas program to create innovations in the provision of water supply and wastewater service.

SECTION 2. Section 15.001(11), Water Code, is amended to read as follows:

(11) "Economically distressed area" means:

(A) an area in which water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules and in which financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; or

(B) for purposes of any federal funds for colonias deposited in the water assistance fund, an area that meets the federal criteria for use of such funds.

SECTION 3. Section 15.012(b), Water Code, is amended to read as follows:

(b) ~~Money [Revenues accumulated pursuant to Article VIII, Section 24(b), of the Texas Constitution and money]~~ appropriated by the legislature to the fund shall be deposited in this fund. *Gifts or grants from the United States government, local or regional governments, private sources, or other sources may be deposited in this fund.*

SECTION 4. Section 17.0112(a), Water Code, is amended to read as follows:

(a) The board may issue not more than \$25 million in bonds dedicated under Section 17.0111 of this code during a *fiscal* [calendar] year to provide financial assistance for water supply and sewer services as provided under Subchapter K of this chapter.

SECTION 5. Section 17.072(j), Water Code, is amended to read as follows:

(j) Proceeds from the sale of bonds pursuant to Section 17.0111 of this code, together with proceeds, other than accrued interest, from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes provided by Subchapter K of this chapter, shall be deposited in a special account in the development fund designated as the economically distressed areas account, with other money for deposit in that account as provided by this chapter, the General Appropriations Act, or other law of this state. *Money*

from gifts or grants from the United States government, local or regional governments, private sources, or other sources for the purposes of assisting economically distressed areas also may be deposited in the economically distressed areas account. Within the economically distressed areas account, separate accounts may be created for bonds issued for purposes of Article III, Section 49-c, of the Texas Constitution, and bonds issued for purposes of Article III, Section 49-d-1, of the Texas Constitution.

SECTION 6. Sections 17.922 and 17.924, Water Code, are amended to read as follows:

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

(b) *To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board's determination of financial assistance for the economically distressed area in a manner that assures the economically distressed area receives appropriate benefits from the savings. In no event shall financial assistance provided from the economically distressed areas account be used to provide water supply or wastewater service to any area not defined as an economically distressed area pursuant to Section 17.921(1)(A) of this code.*

Sec. 17.924. MUNICIPALITY ELIGIBLE FOR FINANCIAL ASSISTANCE. A municipality that is located in a county that is eligible for financial assistance under Section 17.923 [17.883] of this code is eligible for financial assistance under this subchapter if the municipality adopts the model rules developed under Section 16.343 of this code.

SECTION 7. Section 17.929(a), Water Code, is amended to read as follows:

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

(1) the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) efforts by the residents of the economically distressed area to provide necessary water supply and sewer services;

(3) the proposed use of labor from inside the political subdivision to perform contracts for providing water supply and sewer services;

(4) the relationship of the proposed water supply and sewer services to minimum state standards for water supply and sewer services adopted under Section 16.343 of this code;

(5) the financing of the proposed water supply and sewer project including consideration of:

(A) the budget and repayment schedule submitted under Section 17.927(b)(4) [17.887(b)(4)] of this code;

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board;[.]

(6) whether the applicant has proposed methods for incorporating water conservation into the provision of water and sewer services to the economically distressed area;

(7) whether the county has adopted model rules pursuant to Section 16.343 of this code and the manner of enforcement of model rules;

(8) the feasibility of creating a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution, to provide the services and finance the water supply and sewer services covered by the application with district bonds issued and sold through the regular bond market; [and]

(9) the percentage of the total project cost that the financial assistance will comprise; and

(10) *the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the facility by using funds from the economically distressed areas account or any other financial assistance.*

SECTION 8. Section 17.930(b), Water Code, is amended to read as follows:

(b) After making the considerations provided by Section 17.929 [~~17.889~~] of this code, the board by resolution shall approve or disapprove the application and shall notify the applicant in writing of its decision.

SECTION 9. Sections 17.933(a), (c), (d), and (e), Water Code, are amended to read as follows:

(a) The board may use money in the economically distressed areas account to provide financial assistance to a political subdivision to be repaid in the form, manner, and time provided by board rules and in the agreement between the board and the political subdivision taking into consideration the information provided by Section 17.927(b)(7) [~~17.887(b)(7)~~] of this code.

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter *from state-issued bonds* for which repayment is not required may not exceed at any time 90 [75] percent of the total principal amount of issued and unissued bonds authorized under Article III, Section 49-d-7, of the Texas Constitution, for purposes of this subchapter plus outstanding interest on those bonds.

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

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

(2) sources of funding available to the political subdivision from federal and private funds and from other state funds; [~~and~~]

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

(4) *the just, fair, and reasonable charges for water and wastewater service as provided in this code.*

(e) In making its determination under Subsection (d)(1) [~~(b)(1)~~] of this section, the board may consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

SECTION 10. 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 23, 1993: Yeas 127, Nays 0, 2 present, not voting; the House refused to concur in Senate amendments to H.B. No. 997 on May 12, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 997 on May 24, 1993, by a non-record vote; passed by the Senate, with amendments, on May 7, 1993: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 997 on May 25, 1993: Yeas 31, Nays 0.

Approved June 19, 1993.

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