

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

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

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. [~~PILOT~~] PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE [~~LOANS~~] FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance [~~loan~~] fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; [~~or~~]

(B) any portion of a political subdivision [~~district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,~~] with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

1           (4) "Disadvantaged rural community" means a rural  
2 community with a median household income that is not greater than 75  
3 percent of the median state household income for the most recent  
4 year for which the applicable statistics are available.

5           SECTION 3. The heading to Section 15.902, Water Code, is  
6 amended to read as follows:

7           Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
8 WASTEWATER FINANCIAL ASSISTANCE [LOAN] FUND.

9           SECTION 4. Section 15.902(a), Water Code, is amended to  
10 read as follows:

11           (a) The disadvantaged rural community water and wastewater  
12 financial assistance [loan] fund is an account in the water  
13 assistance fund.

14           SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
15 are amended to read as follows:

16           (a) The fund may be used by the board to provide grants or  
17 loans of financial assistance to political subdivisions or water  
18 supply corporations [rural communities] for the construction,  
19 acquisition, or improvement of water and wastewater projects to  
20 provide service to disadvantaged rural communities.

21           (b) The board may make financial assistance available to a  
22 political subdivision or water supply corporation [rural  
23 community] by entering into a grant agreement or a loan agreement  
24 and promissory note with the subdivision or corporation [rural  
25 community], as provided by this subchapter. A political  
26 subdivision or water supply corporation [rural community] may apply  
27 for and accept the financial assistance.

1 (d) The loan agreement must provide for the issuance of a  
2 promissory note payable to the board to evidence the obligation of  
3 the political subdivision or water supply corporation [~~rural~~  
4 ~~community~~] to repay the loan made in accordance with the terms of  
5 the loan agreement.

6 SECTION 6. Section 15.904(a), Water Code, is amended to  
7 read as follows:

8 (a) A political subdivision or water supply corporation may  
9 pledge a percentage of its revenue to the payment of debt incurred  
10 under a loan agreement entered into with the board under this  
11 subchapter. A [~~rural community that is a~~] municipality or county  
12 may pledge a percentage of the sales and use tax revenue received  
13 under Chapter 321 or 323, Tax Code, as applicable, to the payment of  
14 debt incurred under a loan agreement entered into with the board  
15 under this subchapter if a majority of the voters voting at an  
16 election called and held for that purpose authorize the  
17 municipality or county to pledge a portion of that revenue for that  
18 purpose.

19 SECTION 7. Section 15.905, Water Code, is amended to read as  
20 follows:

21 Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY  
22 ATTORNEY GENERAL. (a) Before a loan agreement may become  
23 effective, a record of the proceedings of the board and the  
24 political subdivision or water supply corporation [~~rural~~  
25 ~~community~~] authorizing the execution of the loan agreement, the  
26 loan agreement, the promissory note, and any contract providing  
27 revenue or security to pay the promissory note must be submitted to

1 the attorney general for review and approval.

2 (b) If the attorney general finds that the loan agreement  
3 and the promissory note are valid and binding obligations of the  
4 political subdivision or water supply corporation [~~rural~~  
5 ~~community~~], the attorney general shall approve the documents and  
6 deliver them to the comptroller, the board, and the subdivision or  
7 corporation [~~rural community~~], together with a copy of the attorney  
8 general's legal opinion stating that approval.

9 SECTION 8. Section 15.909, Water Code, is amended to read as  
10 follows:

11 Sec. 15.909. RULES. The board shall adopt necessary rules  
12 to administer this subchapter, including rules establishing  
13 procedures for application for and award of loans or grants.

14 SECTION 9. Section 15.910, Water Code, is amended to read as  
15 follows:

16 Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an  
17 application to the board for financial assistance from the fund, a  
18 political subdivision or water supply corporation [~~the rural~~  
19 ~~community~~] must include:

20 (1) its [~~the~~] name [~~of the rural community~~] and its  
21 principal officers;

22 (2) a citation of the law under which the subdivision  
23 or corporation [~~the rural community~~] operates and was created;

24 (3) a description of the water or wastewater project  
25 for which the financial assistance will be used;

26 (4) the total cost of the project;

27 (5) the amount of state financial assistance

1 requested;

2 (6) the plan for repaying any loan provided by the  
3 board for [~~the total cost of~~] the project; and

4 (7) any other information the board requires in order  
5 to perform its duties and to protect the public interest.

6 (b) The board may not accept an application for a loan or  
7 grant of financial assistance from the fund unless it is submitted  
8 in affidavit form by the officials of the political subdivision or  
9 water supply corporation [~~rural community~~]. The board shall  
10 prescribe the affidavit form in its rules.

11 (c) If a political subdivision or water supply corporation  
12 [~~rural community~~] has a program of water conservation, the  
13 subdivision or corporation [~~rural community~~] shall state in the  
14 application that the subdivision or corporation [~~rural community~~]  
15 has such a program.

16 (d) In an application to the board for financial assistance  
17 from the fund, a political subdivision or water supply corporation  
18 shall include household surveys for the disadvantaged rural  
19 community to be served by the project that are acceptable to the  
20 board and contain information adequate to establish:

21 (1) the median household income of the disadvantaged  
22 rural community; and

23 (2) the level of community support for the project.

24 SECTION 10. Section 15.911, Water Code, is amended to read  
25 as follows:

26 Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may  
27 not release funds for the construction phase of that portion of a

1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1 (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5 (3) the relationship of the project to overall  
6 statewide needs; and

7 (4) any other factors that the board considers  
8 relevant.

9 SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11 Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15 (1) the public interest requires state participation  
16 in the project; and

17 (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22 SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24 Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

1 the construction of a project that:

2 (1) each bidder furnish a bid guarantee equivalent to  
3 five percent of the bid price;

4 (2) each contractor awarded a construction contract  
5 furnish performance and payment bonds as follows:

6 (A) the performance bond must include guarantees  
7 that work done under the contract will be completed and performed  
8 according to approved plans and specifications and in accordance  
9 with sound construction principles and practices; and

10 (B) the performance and payment bonds must be in  
11 a penal sum of not less than 100 percent of the contract price and  
12 remain in effect for one year after the date of approval by the  
13 engineer of the ~~[political]~~ subdivision or corporation;

14 (3) payment be made in partial payments as the work  
15 progresses;

16 (4) each partial payment not exceed 95 percent of the  
17 amount due at the time of the payment as shown by the engineer of the  
18 project, but, if the project is substantially complete, a partial  
19 release of the five percent retainage may be made by the subdivision  
20 or corporation ~~[rural community]~~ with approval of the executive  
21 administrator;

22 (5) payment of the retainage remaining due on  
23 completion of the contract be made only after:

24 (A) approval by the engineer for the subdivision  
25 or corporation ~~[rural community]~~ as required under the bond  
26 proceedings;

27 (B) approval by the subdivision or corporation



1 [~~governing body of the rural community~~] by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation [~~rural community~~] shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation [~~rural community~~] may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.

David Neuhorst

President of the Senate

Jim Coakley

Speaker of the House

I certify that H.B. No. 3029 was passed by the House on May 10, 2005, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 3029 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Patsy Saw  
Secretary of the Senate

APPROVED:

18 JUNE '05

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
12:20 PM O'CLOCK

Roger Williams  
Secretary of State