

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to financial assistance provided to political subdivisions by the Texas Water Development Board for nature-based water quality enhancement projects.

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

SECTION 1. Section 17.272, Water Code, is amended to read as follows:

Sec. 17.272. FINANCIAL ASSISTANCE. The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement, including projects proposed under the water resource restoration program established under Section 17.280.

SECTION 2. Section 17.275, Water Code, is amended to read as follows:

Sec. 17.275. CONSIDERATIONS IN PASSING ON APPLICATION. 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, 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;

(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 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; and

(4) whether the political subdivision proposes a project through the water resource restoration program established under Section 17.280.

SECTION 3. Section 17.274, Water Code, is amended by adding Subsection (b) to read as follows:

(b) An application for financial assistance administered through the water resource restoration program established under Section 17.280 must include a copy of a resolution approving the proposed project adopted by the governing body of a municipality or special purpose district or the commissioners court of a county in which the proposed project is to be located.

SECTION 4. Section 17.001, Water Code, is amended to read as follows:

Sec. 17.001. DEFINITIONS. In this chapter:

(10) "Water quality enhancement" means the construction of treatment works by political subdivisions including a water quality enhancement project defined in Section 17.280 with loans provided by water quality enhancement funds.

SECTION 5. Section 17.271, Water Code, is amended to read as follows:

Sec. 17.271. PURPOSE. The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Sections 49-d-1, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution to political subdivisions of the state for the construction of treatment works and water quality enhancement projects defined in Section 17.280.

SECTION 6. Section 17.279, Water Code, is amended to read as follows:

Sec. 17.279. LIMITATION ON USE OF FUNDS. If there is insufficient money available to fund all applications under this subchapter, the board shall give preference to applications for political subdivisions that:

(1) the board finds cannot reasonably finance the treatment works without assistance from the state;

(2) propose a project through the water resource restoration program established under Section 17.280 that provides a significant improvement to water quality in the relevant watershed; or

(3) propose a project through the water resource restoration program established under Section 17.280 that affects a disadvantaged community, as determined by board rule.

SECTION 7. Subchapter F, Chapter 17, Water Code, is amended by adding Section 17.280 to read as follows:

Sec. 17.280. WATER RESOURCE RESTORATION PROGRAM. (a) In this section:

(1) "Program" means the water resource restoration program.

(2) "Project" means nature-based infrastructure that will improve water quality in the political subdivision where the project is located including the acquisition of property and the use of nature-based water treatment technologies.

(b) The board shall establish and administer the water resource restoration program to assist in enhancing water quality in the state through the provision of financial assistance to political subdivisions for locally directed projects.

(c) Moneys in the Clean Water State Revolving Fund outlined in Chapter 375, Texas Administrative Code, and the Drinking Water

State Revolving Fund outlined in Chapter 371, Texas Administrative Code, shall be used for the water resource restoration program. The department shall establish on an annual basis the percentage of moneys available for the program from the funds.

(d) The interest rate on the loan under the program for communities participating in a water resource restoration project shall be set at a level that requires the community to pay not more than the amount the community would have paid if they did not participate in a water resource restoration project.

(e) A proposed project must be compatible with the goals of the program and include the application of best management practices for the primary purpose of water quality protection and improvement. A proposed project may include:

(1) On a regional scale practices that preserve and restore natural landscape features such as forests, floodplains and wetlands, coupled with policies that reduce impervious cover in a watershed;

(2) On a local scale practices that increase infiltration and retention such as bioretention, trees, green roofs, permeable pavements, constructed wetlands, and cisterns;

(3) Implementation of green streets in transportation and public right-of-ways;

(4) Wet weather management systems for parking areas and other impervious cover, such as bioretention, trees, permeable pavements, rain gardens and wetlands;

(5) Implementation of comprehensive street tree or urban forestry programs including expansion of tree boxes, to manage stormwater and enhance tree health;

(6) Stormwater harvesting including cisterns and piping to distribute water for reuse;

(7) Downspout disconnection to remove stormwater from sewers and separate storm sewers and manage stormwater onsite;

(8) Green roofs, green walls, soil quality enhancement, turf removal and replacement with native grasses and vegetation that improve infiltration;

(9) Establishment or restoration of permanent riparian buffers, floodplains, wetlands and other natural features including vegetative buffers, grass swales, soft bioengineered stream banks, and stream daylighting;

(10) Management of wetlands to improve water quality and/or support infiltration and water retention; and

(11) Sustainable landscaping to restore site hydrologic processes.

(e) A proposed project may not include:

(1) passive recreation activities and trails including bike trails, playgrounds, athletic fields, picnic tables, and picnic grounds;

(2) non-permeable surface parking lots;

(3) Stormwater ponds that serve an extended detention function and/or extended filtration such as dirt-lined detention basins;

(4) In-line and end-of-pipe treatment systems that only filter or detain stormwater without the use of natural plants and trees;

(5) Underground stormwater control and treatment devices such as hydrodynamic separators, baffle systems for grit, trash removal and oil and grease separators;

(6) Stormwater conveyance systems that are not soil/vegetation based (swales) such as pipes and concrete channels;

(7) Hardening, channelizing, dredging or straightening streams or stream banks;

(8) Street sweepers, sewer cleaners, and vector trucks unless they support nature-based infrastructure projects.

(9) supplemental environmental projects required as a part of a consent decree.

(f) A project may not include the acquisition of property,

an interest in property, or improvements to property through the use of eminent domain.

(g) The board shall adopt rules to establish a means of prioritizing projects in disadvantaged communities. The board shall include the following criteria to determine whether a political subdivision seeking financing under this section is a disadvantaged community:

(1) median household income in the community as a percentage of statewide household income;

(2) annual water and sewer rates as a percentage of median household income in the community;

(3) families below the poverty level in the community as a percentage of the statewide number of families below the poverty level;

(4) per capita outstanding debt of the wastewater system serving the community as a percentage of median household income in the community; and

(5) cost-effectiveness calculated by determining construction costs of the proposed project per user.

(h) An application for the financing of a project under this section must include a viability assessment that includes:

(1) the ability of the applicant to provide proper oversight and management through a certified operator; and

(2) the financial ability of the users to support the long-term maintenance of the project.

(i) The board shall adopt rules necessary for the implementation and administration of this section.

SECTION 6. Not later than September 1, 2022, the Texas Water Development Board shall adopt rules necessary to implement Section 17.280, Water Code, as added by this Act.

SECTION 7. This Act takes effect September 1, 2021.