By: _____ S B. NO. 985

A BILL
TO BE ENTITLED

AN ACT relating to the establishment of public water supply systems in certain areas in the state; providing for the Texas Water Quality Board to administer this Act; declaring this Act to be cumulative of other laws on the same subject; providing for severability; and declaring an emergency.

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

Section 1. SHORT TITLE. This Act may be cited as the Texas Water Supply Assistance Act.

Sec. 2. LEGISLATIVE FINDING; POLICY AND PURPOSE. The legislature finds and declares that an adequate supply of potable water for domestic use is essential for the health, safety, and welfare of the people of this state, and that it is the public right and duty of this state under Article 16, Section 59, of the Texas Constitution, to distribute the waters in this state for all useful purposes, which includes the distribution of potable water for domestic use. It is the policy of this state and the purpose of this Act to encourage the development and assist in the establishment of public water supply systems for the distribution of potable water, primarily for domestic use, to the citizens of this state who reside in communities and other areas, both rural and urban, not now served by such a system, in which such a system is necessary or desirable from the standpoint of the health, safety, and welfare of the people of this state and in which it is reasonable to provide such a system.

Sec. 3. DEFINITIONS. As used in this Act, unless the context requires a different definition:

(1) "board" means Texas Water Quality Board;

(2) "public water supply system" means a system provided for the use and benefit of the general public for taking, receiving,

treating, and distributing water primarily for domestic use, and includes pipelines, conduits, canals, water mains, pumping stations, flushing valves, short-term storage facilities, water wells, water treatment facilities, and all other devices and appurtenances used or required in connection with providing a domestic water supply.

(3) "water utility" means a legal entity, other than a private individual, which is legally authorized to own, construct, and operate a public water supply system, and includes counties, incorporated cities, water districts and river authorities created under authority of Article 3, Section 52, or Article 16, Section 59, of the Texas Constitution, and water supply corporations organized pursuant to Article 1434a, V.T.C.S.; and

(4) "to construct" and "construction" include carrying out preliminary planning to determine the economic and engineering feasibility of a water supply project; conducting engineering, legal, fiscal, and economic investigations and studies; the preparation of surveys, designs, plans, working drawings, specifications, procedures, and other items necessary for the water supply project; erection, building, acquisition, alteration, remodeling, improvement, and extension; and inspection and supervision.

Sec. 4. DUTY OF THE BOARD. (a) The board shall administer the provisions of this Act and has the responsibility for carrying out the policy and purpose of this Act. The board has the powers and duties specifically set forth in this Act and all other powers necessary or convenient to carry out its responsibilities.

(b) The board is empowered to and shall identify and define on a continuing, active basis the communities and areas in the state which do not have adequate public water supply systems and

in which it is reasonable and desirable to provide the systems. With respect to the areas so identified, the board shall:

(1) actively encourage and promote the development and use of public water supply systems in the areas;

(2) encourage and assist in the organization or creation of water utilities for those areas;

(3) with money provided for the purpose by legislative appropriation, make grants or loans to water utilities, under such terms and conditions as the board may reasonably require, to pay all or part of the cost, as the board in its direction may determine the need to be, for the construction of public water supply systems in those areas;

(4) with money provided for the purpose by legislative appropriation, make grants or loans under such terms and conditions as the board may require to water utilities, regional planning commissions, councils of governments, and other political subdivisions and public planning agencies for the purpose of developing and preparing regional and area-wide plans for water supply systems for those areas or for larger regions which include those areas;

(5) assist water utilities in obtaining grants and other financial aid and assistance from federal and state agencies and other sources for the construction, operation, and maintenance of public water supply systems in those areas; and

(6) acquire or assist water utilities in acquiring the water and water rights needed for public water supply systems in those areas.

(c) In performing its duties under this Act, the board shall assure that, to the extent of its ability to do so, the design, site and construction of public water supply systems which fall within the purview of this Act are compatible with any approved plan for governmental services in the areas in which the public water supply systems are or will be located. In this regard,

the board may require that any public water supply system which falls within the purview of this Act be considered a temporary or interim system, pending the development of another water supply system which is more in accord with the approved plan for governmental services in the area.

(d) The board may make contracts and execute instruments that are necessary or convenient to the exercise of its powers or the performance of its duties under this Act.

(e) Whenever for any reason the board is unable to make a grant or loan to a water utility for the construction of a public water supply system which in the judgment of the board otherwise qualifies for assistance under this Act, the board itself may use money provided to the board by legislative appropriation for that purpose to acquire by eminent domain land and other property required for that purpose in the manner provided by general law with respect to condemnation and to construct the public water supply system. A system constructed by the board shall be the property of the State of Texas. The board may operate and maintain the system, may contract with any legal entity which has the legal capacity to do so to operate and maintain the system, or may sell the system to a water utility on such reasonable terms as the parties may agree.

Sec. 5. POWERS OF WATER UTILITIES. Water utilities are empowered to apply for and receive grants, loans, and other assistance from federal and state agencies and other sources, contract pursuant to this Act, construct, maintain, and operate public water supply systems which come within the purview of this Act, and do any and all other things and take any and all other actions necessary or convenient to accomplish the purposes and objectives of this Act.

Sec. 6. ACT CUMULATIVE. This Act is cumulative of and supplemental to any other laws or parts of laws pertaining to the same subject, particularly the laws pertaining to the authority and responsibility of the Texas State Department of Health with respect to drinking water supplies and drinking water supply systems under Article 4477-1, V.T.C.S., and this Act does not repeal those other laws or parts of laws.

Sec. 7. SEVERABILITY CLAUSE. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision or part of this Act should be held to be invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions, regardless of the invalidity of any part.

Sec. 8. EMERGENCY CLAUSE. The importance to the public of this Act creates an emergency and imperative public necessity demanding the suspension of the Constitutional Rule requiring bills to be read on three several days in each House, and the same is hereby suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

S.B. 985 By: Bates

BILL ANALYSIS

Background:

Purpose of the Bill:

To encourage the development of public water supply systems by giving the Texas Water Quality Board the power to promote and encourage and to lend money or spend its own money to develop public water supply systems in areas the board deems appropriate; and to give "water utilities" powers in connection with this act for the same purposes.

Section by Section Summary:

Section 1: Title: Texas Water Supply Assistance Act.

Section 2: Purpose. (See "Purpose" above)

Section 3: Defines: board (Texas Water Quality Board), public water supply system, water utility, to construct, and construction.

Section 4: (a) The board is given the powers and duties of administering the provisions of this act, specifically the following:

(b) To identify communities not having adequate public water supply systems and in which it is desirable to have such systems. The board shall:

(1) promote the development of such public water supply systems;

(2) encourage and assist creation of such systems;

(3) lend money to water utilities in these areas;

(4) lend money to water utilities, regional planning commissions, and others to develop regional water supply systems;

(5) assist water utilities in obtaining state and federal grants to construct such systems;

(6) acquire or assist water utilities in acquiring water and water rights in connection with such systems.

(c) the board should see to it that the design, site, and construction of such systems is compatible with other systems in the area.

(d) The board may contract or use other necessary instruments in connection with the duties of this Act.

(e) If necessary, the board may use its eminent domain power and money provided by legislative appropriation to acquire land and other property and to construct such systems thereon. The board may operate, lease, or sell the system it creates by this method.

Section 5: Water utilities may apply for and receive federal and state grants, loans and other assistance, contract, construct, maintain, and operate public water supply systems and do other necessary acts in connection with this act.

Section 6: This act is cumulative.

Section 7: Severability clause.

Section 8: Emergency clause.

S.B. No. 985 By Bates

AN ACT relating to the establishment of public water supply systems in certain areas in the state; providing for the Texas Water Quality Board to administer this Act; declaring this Act to be cumulative of other laws on the same subject; providing for severability; and declaring an emergency.

Constitutional Rule (Sec. 5, Art. III) and Senate Rule 108 suspended by vote of 29 yeas, 0 nays, to introduce bill.

_____ Filed with the Secretary of the Senate

MAY 10 1971 Read, referred to Committee on [redacted] Water and Conservation

_____ Reported favorably.

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

_____ Ordered not printed.

_____ Senate and Constitutional Rules to permit consideration suspended by { unanimous consent. / _____ yeas, _____ nays.

_____ To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ Read second time and { ordered engrossed. / passed to third reading.

_____ Caption ordered amended to conform to body of bill.

_____ Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.

_____ Read third time and passed by { a viva-voce vote. / _____ yeas, _____ nays.

OTHER ACTION:

_____
Secretary of the Senate

_____ Engrossed

_____ Sent to HOUSE

_____
ENGROSSING CLERK