

BILL ANALYSIS

Senate Research Center
81R23639 TRH-F

H.B. 3526
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The American Recovery and Reinvestment Act of 2009 (ARRA) was enacted by the 111th United States Congress and signed into law by the President on February 17, 2009. The ARRA provides appropriations to states for job preservation and creation, infrastructure investment, unemployment assistance, and state and local fiscal stabilization. The ARRA also includes appropriations to the Environmental Protection Agency for capitalization grants for states to finance high priority infrastructure projects needed to ensure clean water and safe drinking water under the state revolving fund programs financed by capitalization grants under the federal Water Pollution Control Act and Safe Drinking Water Act.

As a result of ARRA, the State of Texas will receive an estimated \$179.1 million in an additional capitalization grant for the state's clean water state revolving fund (CWSRF) and \$160.7 million in an additional capitalization grant for the state's drinking water state revolving fund (DWSRF). The ARRA requires that funds for both CWSRF and DWSRF be reallocated to other states if projects are not under contract or construction by February 2010. Also, states are required to "give preference to activities that can be started and completed expeditiously" with a goal of 50 percent within 120 days of enactment.

H.B. 3526 amends current law relating to the adoption of rules by the Texas Water Development Board regarding supplemental funding resulting from federal economic recovery legislation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 1 (Section 15.604, Water Code) and SECTION 2 (Section 15.6055, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.604(b), Water Code, as follows:

(b) Requires the board to adopt rules specifying the manner in which any additional state revolving fund hereafter established by the Texas Water Development Board (board), or any capitalization grant under the state water pollution control revolving fund, the safe drinking water revolving fund, or any additional state revolving fund, is authorized to be used to provide financial assistance to an eligible applicant, rather than political subdivisions, for public works. Requires such rules to require financial assistance to be provided for the purpose or purposes and on the terms authorized by the federal legislation or federal agency program under which the additional state revolving fund was established or the capitalization grant was awarded.

SECTION 2. Amends Subchapter J, Chapter 15, Water Code, by adding Section 15.6055, as follows:

Sec. 15.6055. **RULEMAKING AUTHORITY FOR SPECIAL FEDERAL CAPITALIZATION GRANTS.** (a) Authorizes the board to adopt rules specifying the manner in which any special capitalization grant under the state water pollution control revolving fund, the safe drinking water revolving fund, or any additional state revolving fund received as a result of federal economic recovery legislation is authorized to be used to provide financial assistance to an eligible applicant for public works. Requires that the rules require that financial assistance be provided for the purpose or purposes, and on the

terms authorized by, the federal legislation or federal agency program under which the additional state revolving fund was established or the special capitalization grant was awarded.

(b) Provides that if the board determines that it is necessary to adopt rules to comply with the terms of a special capitalization grant or other source of federal funding, and that the procedures prescribed by Subchapter B (Rulemaking), Chapter 2001 (Administrative Procedure), Government Code, for adopting rules do not allow for the adoption of the rules in a sufficiently prompt manner, the procedures prescribed by that subchapter do not apply to the adoption of the rules. Requires the board, in that case, to post notice of a meeting to adopt rules not later than 72 hours before the time the meeting is scheduled, and adopt the necessary rules at the meeting.

(c) Requires the board to file a rule adopted in the manner authorized by Subsection (b) and the board's written determinations made under that subsection in the office of the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 (Texas Register and Administrative Code), Government Code.

(d) Authorizes the board, not later than the 180th day after the date rules are adopted under Subsection (b), to readopt or amend the rules in accordance with the procedures prescribed by Subchapter B, Chapter 2001, Government Code. Provides that if the board does not readopt or amend the rules in that manner, the rules expire on the 180th day after the date the rules were adopted under Subsection (b).

(e) Provides that this section expires September 1, 2011.

SECTION 3. Effective date: upon passage or September 1, 2009.