



TEXAS WATER DEVELOPMENT BOARD



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September 14, 2005

The Honorable Gregg Abbott
Office of the Attorney General
Opinions Division
Price Daniel Sr. Building
209 West 14th Street, 6th Floor
Austin, Texas 78701

RQ-0394-GA

RECEIVED

SEP 15 2005

OPINION COMMITTEE

FILE # ML-44402-05

I.D. # 44402

Re: Request for Opinion concerning conflicts between SB 425 and HB 467

Dear General Abbott:

The Texas Water Development Board (Board) seeks an Attorney General Opinion to resolve the conflicts between Senate Bill 425 and House Bill 467 which were both enacted by the 79th Texas Legislature this year. Both bills make changes to Sections 16.341 and 17.923 of the Texas Water Code. Which version of these sections should state agencies and political subdivisions follow? Copies of both bills along with a table summarizing the conflicting language between Senate Bill 425 and House Bill 467 are attached for your convenience.

Based on Section 311.025 of the Government Code, it appears that to the extent that the provisions of House Bill 467 conflict with Senate Bill 425, then the provisions of House Bill 467 should prevail since it is the latest in date of enactment. However, in order to ensure the consistent application of the law among the various agencies and political subdivisions of the State of Texas, the Board is seeking an Attorney General Opinion to clarify this matter.

Sincerely,

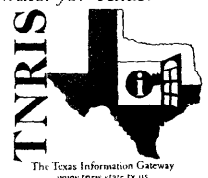
J. Kevin Ward
Executive Administrator

Attachments

- c: The Honorable Eddie Lucio, Senator, Chair, Senate International Relations and Trade Committee
- The Honorable Norma Chavez, Representative, Chair, House Committee on Border & International Affairs
- The Honorable Mario Gallegos, Senator
- The Honorable Juan "Chuy" Hinojosa, Senator
- The Honorable Vilma Luna, Representative
- The Honorable Kevin Bailey, Representative
- Jerry Hill, General Counsel, Texas Office of Rural Community Affairs
- Homero Cabello, Texas Department of Housing and Community Affairs
- Yvette Sanchez, Director of Colonia Initiatives, Office of the Secretary of State
- David Preister, Office of the Attorney General

To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.

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Conflicting Language between SB 425 and HB 467

Senate Bill 425	House Bill 467
<p>Water Code, Section 16.341(1):</p> <p>(1) "Affected county" means a county:</p> <p>(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available;</p> <p>(B) that is adjacent to an international border; or</p> <p>(C) that is located in whole or in part within 100 miles of an international border and contains the majority of the area of a municipality with a population of more than 250,000.</p> <p>Unchanged</p>	<p>Water Code Sections 16.341(1):</p> <p>(1) "Affected county" means a county that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income.</p>
<p>Water Code Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE. To be eligible for financial assistance under this subchapter, a county:</p> <p>(1) must have a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available;</p> <p>(2) must be located adjacent to an international border; or</p> <p>(3) must be located in whole or in part within 100 miles of an international border and contain the majority of the area of a municipality with a population of more than 250,000.</p> <p>I hereby certify that S.B. No. 425 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0.</p> <p>I hereby certify that S.B. No. 425 passed the House on May 25, 2005, by a non-record vote.</p>	<p>Water Code Section 16.341 (2)</p> <p>(2) "Economically distressed area" has the meaning assigned by Section 17.921.</p> <p>Deleted</p> <p>I certify that H.B. No. 467 was passed by the House on April 20, 2005, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 467 on May 27, 2005, by the following vote: Yeas 139, Nays 0, 2 present, not voting.</p> <p>I certify that H.B. No. 467 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 30, Nays 1.</p>