

By: Huberty

H.B. No. 181

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the funding of projects by the Texas Water Development
3 Board to promote utility reliability, resiliency, efficiency,
4 conservation, and demand reduction; authorizing the issuance of
5 revenue bonds.

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

7 SECTION 1. (a) The legislature recognizes the importance
8 of providing for the reliability and resiliency of this state's
9 utilities, broadband providers, and power generation companies.
10 The purpose of this Act is to ensure that proper funding in the form
11 of meaningful and adequate financial assistance is available to
12 enhance the reliability and resiliency of water, electric, and
13 natural gas utilities, broadband providers, and power generation
14 companies in this state, including by supporting projects to
15 weatherize facilities, provide resilience, and reduce demand
16 during periods of high demand.

17 (b) To accomplish that purpose, this Act creates the state
18 utilities reliability fund. The fund is intended to serve as an
19 infrastructure funding source in order to enhance the financing
20 capabilities of the Texas Water Development Board under a
21 constitutionally created program and a revenue bond program. Money
22 in the fund will be available to provide any financial assistance,
23 including market rate, low-interest, and no-interest loans, longer
24 repayment terms for loans, deferral of loan payments, interest rate

1 rebates and subsidies, loan guarantees, grants, or other financial
2 assistance that meets the needs of this state, the recipients, and
3 the purposes of this Act, as provided by Sections 49-d-15 and
4 49-d-16, Article III, Texas Constitution. In addition, this Act
5 creates the state utilities reliability revenue fund for use in
6 managing revenue bonds issued by the Texas Water Development Board
7 that are supported by the state utilities reliability fund. The
8 state utilities reliability fund and the state utilities
9 reliability revenue fund are not intended to be used to pay for new,
10 dispatchable sources of electricity to be built by private
11 entities.

12 SECTION 2. Chapter 447, Government Code, is amended by
13 adding Section 447.014 to read as follows:

14 Sec. 447.014. ENERGY EFFICIENCY, NATURAL GAS CONSERVATION,
15 AND WATER CONSERVATION LOAN PROGRAM. (a) Using money available
16 from the state utilities reliability fund established under Chapter
17 202, Utilities Code, the comptroller and the State Energy
18 Conservation Office jointly by rule shall establish and administer
19 a program that issues or guarantees loans to be used for
20 improvements that increase the energy efficiency of and promote
21 conservation of natural gas and water by residences and businesses
22 that are not newly constructed.

23 (b) The rules adopted under this section must establish
24 eligibility requirements for receipt of a loan issued or guaranteed
25 under the program, including emissions reduction
26 cost-effectiveness criteria.

27 (c) The State Energy Conservation Office annually shall

1 submit to the Public Utility Commission of Texas and the Energy
2 Systems Laboratory of the Texas A&M Engineering Experiment Station
3 a report that:

- 4 (1) evaluates the effectiveness of the program; and
5 (2) quantifies energy savings and emissions
6 reductions that result from the program for consideration in the
7 state implementation plan, as described by Section 382.0173, Health
8 and Safety Code, for emissions reduction credits.

9 SECTION 3. Title 4, Utilities Code, is amended by adding
10 Subtitle C to read as follows:

11 SUBTITLE C. RELIABILITY AND RESILIENCY OF UTILITIES, BROADBAND
12 PROVIDERS, AND POWER GENERATORS
13 CHAPTER 201. GENERAL PROVISIONS

14 Sec. 201.001. DEFINITIONS. In this subtitle:

15 (1) "Advisory committee" means the State Utilities
16 Reliability Fund Advisory Committee.

17 (2) "Board" means the Texas Water Development Board.

18 (3) "Broadband provider" means any person,
19 corporation, municipality or other political subdivision, or
20 agency that owns or operates for compensation in this state
21 facilities to provide broadband telecommunications capability and
22 Internet access in this state.

23 (4) "Commission" means the Public Utility Commission
24 of Texas.

25 (5) "Electric utility" has the meaning assigned by
26 Section 31.002, except that the term includes an electric
27 cooperative organized under Chapter 161 and a municipally owned

1 utility.

2 (6) "Executive administrator" means the executive
3 administrator of the Texas Water Development Board.

4 (7) "Facilities" means all of the property, plants,
5 and equipment of an electric, natural gas, or water utility, a
6 broadband provider, or a power generation company. The term
7 includes tangible property owned, operated, leased, used,
8 controlled, or supplied for, by, or in connection with the business
9 of the electric, natural gas, or water utility, the broadband
10 provider, or the power generation company in this state.

11 (8) "Fund" means the state utilities reliability fund.

12 (9) "Historically underutilized business" has the
13 meaning assigned by Section [2161.001](#), Government Code.

14 (10) "Natural gas utility" means a person who owns or
15 operates for compensation in this state facilities to transmit or
16 distribute combustible hydrocarbon natural gas or synthetic
17 natural gas for sale or resale in a manner not subject to the
18 jurisdiction of the Federal Energy Regulatory Commission under the
19 Natural Gas Act (15 U.S.C. Section 717 et seq.).

20 (11) "Power generation company" has the meaning
21 assigned by Section [31.002](#).

22 (12) "Railroad commission" means the Railroad
23 Commission of Texas.

24 (13) "Revenue fund" means the state utilities
25 reliability revenue fund.

26 (14) "State Energy Conservation Office" means a unit
27 of the comptroller of public accounts.

1 (15) "Trust company" means the Texas Treasury
2 Safekeeping Trust Company.

3 (16) "Water utility" means a person operating,
4 maintaining, or controlling in this state facilities for providing
5 potable water service or wastewater service, or both, for
6 compensation.

7 CHAPTER 202. STATE UTILITIES RELIABILITY FUND

8 Sec. 202.001. FUND. (a) The state utilities reliability
9 fund is a special fund in the state treasury outside the general
10 revenue fund to be used by the board as authorized by this chapter
11 without further legislative appropriation. The board may establish
12 separate accounts in the fund and may transfer funds between
13 accounts. The board may invest, reinvest, and direct the
14 investment of money in the fund. The fund and the fund's accounts
15 may be kept and held by the trust company for and in the name of the
16 board. The board has legal title to money and investments in the
17 fund until money is disbursed from the fund as provided by this
18 chapter and board rules.

19 (b) Money deposited to the credit of the fund may be used
20 only as provided by Section 202.003.

21 (c) The fund consists of:

- 22 (1) money appropriated to the fund;
23 (2) money transferred or deposited to the credit of
24 the fund by law, including money from any source transferred or
25 deposited to the credit of the fund at the board's discretion as
26 authorized by law;

27 (3) the proceeds of any fee or tax imposed by this

1 state that by statute is dedicated for deposit to the credit of the
2 fund;

3 (4) any other revenue that the legislature by statute
4 dedicates for deposit to the credit of the fund;

5 (5) investment earnings and interest earned on amounts
6 credited to the fund;

7 (6) repayments of loans made from the fund; and

8 (7) money transferred to the fund from another fund or
9 account to which money from the fund was transferred.

10 Sec. 202.002. MANAGEMENT AND INVESTMENT OF FUND. (a) The
11 board or the trust company may hold and invest the fund, and any
12 accounts established in the fund, for and in the name of the board,
13 taking into account the purposes for which money in the fund may be
14 used. The fund may be invested with the state treasury pool.

15 (b) The overall objectives for the investment of the fund
16 are, in order of precedence:

17 (1) preservation and safety of the fund principal;

18 (2) liquidity; and

19 (3) investment yield.

20 (c) The board or the trust company, as directed by the
21 board, has any power necessary to accomplish the purposes of
22 managing and investing the assets of the fund. In managing the
23 assets of the fund, through procedures and subject to restrictions
24 the board or the trust company considers appropriate, the board or
25 the trust company may acquire, exchange, sell, supervise, manage,
26 or retain any kind of investment that a prudent investor,
27 exercising reasonable care, skill, and caution, would acquire or

1 retain in light of the purposes, terms, distribution requirements,
2 and other circumstances of the fund then prevailing, taking into
3 consideration the investment of all the assets of the fund rather
4 than a single investment.

5 (d) If the fund is managed by the trust company, the trust
6 company may charge fees to cover its costs incurred in managing and
7 investing the fund. The fees must be consistent with the fees the
8 trust company charges other state and local governmental entities
9 for which the trust company provides investment management
10 services. The trust company may recover fees the trust company
11 charges under this subsection only from the earnings of the fund.

12 (e) If the fund is managed by the trust company, the trust
13 company annually shall provide a report to the board and to the
14 advisory committee with respect to the investment of the fund. The
15 trust company shall contract with a certified public accountant to
16 conduct an independent audit of the fund annually and shall present
17 the results of each annual audit to the board and to the advisory
18 committee. This subsection does not affect the state auditor's
19 authority to conduct an audit of the fund under Chapter 321,
20 Government Code.

21 (f) The board or trust company shall adopt a written
22 investment policy that is appropriate for the fund. If the fund is
23 managed by the trust company:

24 (1) the trust company shall present the investment
25 policy to the board and the investment advisory board established
26 under Section 404.028, Government Code; and

27 (2) the board and investment advisory board shall

1 submit to the trust company recommendations regarding the policy.

2 (g) If the fund is managed by the trust company, the board
3 annually shall provide to the trust company a forecast of the cash
4 flows into and out of the fund. The board shall provide updates to
5 the forecasts as appropriate to assist the trust company in
6 achieving the objectives specified by Subsection (b).

7 (h) If the fund is managed by the trust company, the company
8 shall disburse money from the fund as directed by the board. The
9 board shall direct disbursements from the fund on a schedule
10 specified by the board. If any applicable revenue bonds are
11 outstanding, the board shall direct disbursements from the fund not
12 more frequently than twice in any state fiscal year.

13 (i) An investment-related contract entered into under this
14 section is not subject to Chapter 2260, Government Code.

15 Sec. 202.003. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
16 OR ACCOUNTS. (a) The board or the trust company at the direction of
17 the board shall make disbursements from the fund to the revenue fund
18 in the amounts the board determines are needed for disbursement
19 through the financing structures developed to meet the goals of the
20 fund, including transfer of those amounts to other board programs
21 or funds as necessary, or for debt service payments on or security
22 provisions of the board's revenue bonds, after considering all
23 other sources available for those purposes.

24 (b) The fund may be used only to:

25 (1) enhance the reliability and resiliency of water,
26 electric, and natural gas utilities, broadband providers, and power
27 generation companies for this state by supporting projects,

1 including projects to weatherize facilities and reduce demand, in
2 order to provide resilience and continuous service during periods
3 of high demand;

4 (2) pay the necessary and reasonable expenses of the
5 board in administering the fund; and

6 (3) transfer funds to other board programs or funds.

7 (c) Notwithstanding any other provision of this chapter,
8 the use of the fund may be prioritized based on a statewide utility
9 reliability and resiliency plan adopted under Section 202.010.

10 (d) The board may provide financial assistance from the fund
11 for:

12 (1) a water utility project;

13 (2) an electric utility project;

14 (3) a natural gas utility project;

15 (4) a power generation company project;

16 (5) a water utility, electric utility, or natural gas
17 utility project to reduce demand; or

18 (6) a broadband provider to provide matching funds to
19 enable the broadband provider to participate in a federal program
20 for broadband facilities.

21 (e) Financial assistance under Subsection (d) may be
22 provided in any form as determined by the board, including a market
23 rate, low-interest, or no-interest loan, a loan guarantee, an
24 equity ownership in a public or private entity, a joint venture with
25 a public or private entity, a grant, an interest rebate, or an
26 interest subsidy.

27 (f) In providing financial assistance under Subsection (d),

1 the board may make, enter into, and enforce contracts, agreements,
2 including management agreements, for the management of any of the
3 board's property, leases, indentures, mortgages, deeds of trust,
4 security agreements, pledge agreements, credit agreements,
5 overrides or other revenue sharing mechanisms, repurchase
6 agreements, and other instruments with any person, including any
7 lender and any federal, state, or local governmental agency, and to
8 take other actions as may accomplish any of its purposes.

9 (g) The board may contract with and provide for the
10 compensation of consultants and agents, including engineers,
11 attorneys, management consultants, financial advisors, indexing
12 agents, and other experts, as the business of the board under this
13 chapter may require.

14 (h) The fund may not be used to subsidize or finance the
15 construction of facilities that the board determines, in the
16 board's sole discretion, will result in new electric generation
17 capacity.

18 (i) Money in the fund may not be used for the purposes of
19 certification under Section 403.121, Government Code.

20 Sec. 202.004. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
21 board, for the purpose of providing financial assistance under this
22 chapter, shall prioritize projects that enhance the reliability and
23 resiliency of water, electric, and natural gas utilities, broadband
24 providers, and power generation companies in this state.

25 (b) The board shall establish a point system for
26 prioritizing projects for which financial assistance is sought from
27 the board. The system must include a standard for the board to

1 apply in determining whether a project qualifies for financial
2 assistance at the time the application for financial assistance is
3 filed with the board.

4 (c) The board shall give the highest consideration in
5 awarding points to projects that will have a substantial effect,
6 including projects that will:

7 (1) harden facilities to protect against extreme
8 weather and fuel supply disruptions;

9 (2) enhance resiliency of existing facilities during
10 periods of high demand;

11 (3) enhance the availability of fuel or water to
12 existing power generation companies and electric utilities to
13 improve the reliability of those companies and utilities to provide
14 continuous and adequate electric service during periods of high
15 demand;

16 (4) improve local resiliency by reducing demand
17 through energy efficiency measures, advanced metering
18 infrastructure deployment, and demand response technology
19 deployment; and

20 (5) provide broadband service in low-income and rural
21 communities.

22 (d) In addition to the criteria provided by Subsection (c),
23 the board may also consider the following criteria in prioritizing
24 projects:

25 (1) other funding sources secured by the applicant for
26 the project, including any capital to be provided by the applicant;

27 (2) the financial capacity of the applicant to repay

1 the financial assistance provided; and

2 (3) the ability of the applicant to timely leverage
3 state financing with local, federal, or private funding.

4 (e) The board shall consider federal tax subsidies in
5 prioritizing projects.

6 Sec. 202.005. ADVISORY COMMITTEE. (a) The State Utilities
7 Reliability Fund Advisory Committee is composed of the following
8 members:

9 (1) the comptroller, or a person designated by the
10 comptroller;

11 (2) three members of the senate appointed by the
12 lieutenant governor, including:

13 (A) a member of the committee of the senate
14 having primary jurisdiction over matters relating to finance; and

15 (B) a member of the committee of the senate
16 having primary jurisdiction over natural resources;

17 (3) three members of the house of representatives
18 appointed by the speaker of the house of representatives,
19 including:

20 (A) a member of the committee of the house of
21 representatives having primary jurisdiction over appropriations;
22 and

23 (B) a member of the committee of the house of
24 representatives having primary jurisdiction over natural
25 resources;

26 (4) the chief executive of the Office of Public
27 Utility Counsel, or a person designated by the chief executive of

1 the Office of Public Utility Counsel;

2 (5) the presiding officer of the commission, or a
3 person designated by the presiding officer of the commission;

4 (6) the chair of the Texas Reliability Entity board of
5 directors, or a person designated by a public vote of the Texas
6 Reliability Entity; and

7 (7) an unaffiliated board member of the Electric
8 Reliability Council of Texas, appointed in a public meeting of the
9 Electric Reliability Council of Texas.

10 (b) The board shall provide staff as necessary to assist the
11 advisory committee.

12 (c) An appointed member of the advisory committee serves at
13 the will of the officer who appointed the member.

14 (d) The lieutenant governor shall appoint a co-presiding
15 officer of the advisory committee from among the members appointed
16 by the lieutenant governor, and the speaker of the house of
17 representatives shall appoint a co-presiding officer of the
18 committee from among the members appointed by the speaker.

19 (e) The advisory committee shall hold public hearings,
20 formal meetings, or work sessions in a location with audio and video
21 capacity. The board shall broadcast over the Internet live video
22 and audio of each public hearing, formal meeting, or work session of
23 the advisory committee and provide access to each broadcast on the
24 board's Internet website. Either co-presiding officer of the
25 advisory committee may call a public hearing, formal meeting, or
26 work session of the advisory committee after issuing a public
27 notice not later than the seventh day before the date of the public

1 hearing, formal meeting, or work session. The public notice must
2 include an agenda with formal actions included. The advisory
3 committee may not take formal action at a public hearing, formal
4 meeting, or work session unless a quorum of the committee is
5 present. The board shall provide access on the board's Internet
6 website to the public notices, recordings of the live broadcasts,
7 and minutes of public hearings, formal meetings, and work sessions.

8 (f) Except as otherwise provided by this subsection, a
9 member of the advisory committee is not entitled to receive
10 compensation for service on the committee or reimbursement for
11 expenses incurred in the performance of official duties as a member
12 of the committee. Service on the advisory committee by a member of
13 the senate or house of representatives is considered legislative
14 service for which the member is entitled to reimbursement and other
15 benefits in the same manner and to the same extent as for other
16 legislative service.

17 (g) The advisory committee shall submit comments and
18 recommendations to the board regarding the use of money in the fund
19 and in the revenue fund for use by the board in adopting rules under
20 Section 202.006 and in adopting policies and procedures under
21 Section 202.008. The submission must include:

22 (1) comments and recommendations on rulemaking
23 related to the prioritization of projects in accordance with
24 Section 202.004;

25 (2) comments and recommendations on rulemaking
26 related to establishing standards for determining whether projects
27 meet the criteria provided by Section 202.003;

1 (3) an evaluation of the available programs for
2 providing financing for projects authorized by this chapter and
3 guidelines for implementing those programs;

4 (4) an evaluation of the lending practices of the
5 board and guidelines for lending standards;

6 (5) an evaluation of the use of funds by the board to
7 provide support for financial assistance for projects that enhance
8 the reliability and resiliency of water, electric, and natural gas
9 utilities, broadband providers, and power generation companies for
10 this state, including support for the purposes described by Section
11 202.003(b);

12 (6) an evaluation of methods for encouraging
13 participation in the programs established under this chapter by
14 companies domiciled in this state or that employ a significant
15 number of residents of this state; and

16 (7) an evaluation of the overall operation, function,
17 and structure of the fund.

18 (h) The advisory committee shall review the overall
19 operation, function, and structure of the fund at least
20 semiannually and may provide comments and recommendations to the
21 board on any matter.

22 (i) The advisory committee may adopt rules, procedures, and
23 policies as needed to administer this section and implement its
24 responsibilities.

25 (j) Chapter 2110, Government Code, does not apply to the
26 size, composition, or duration of the advisory committee.

27 (k) The advisory committee is subject to Chapter 325,

1 Government Code (Texas Sunset Act). Unless continued in existence
2 as provided by that chapter, the advisory committee is abolished
3 and this section expires September 1, 2035.

4 (l) The advisory committee shall make recommendations to
5 the board regarding information to be posted on the board's
6 Internet website under Section 202.007(b).

7 (m) The advisory committee shall evaluate and may provide
8 comments or recommendations on the feasibility of the state owning,
9 constructing, and operating water, electric, natural gas, power
10 generation, or broadband facilities related to the purposes
11 described by Section 202.003(b).

12 (n) The executive administrator shall provide an annual
13 report to the advisory committee on:

14 (1) the board's compliance with statewide annual goals
15 relating to historically underutilized businesses; and

16 (2) the participation level of historically
17 underutilized businesses in projects that receive funding under
18 this chapter.

19 (o) If the aggregate level of participation by historically
20 underutilized businesses in projects that receive funding under
21 this chapter does not meet statewide annual goals adopted under
22 Chapter 2161, Government Code, the advisory committee shall make
23 recommendations to the board to improve the participation level.

24 Sec. 202.006. RULES. (a) The board shall adopt rules
25 providing for the use of money in the fund that are consistent with
26 this subchapter, including rules:

27 (1) establishing standards for determining whether

1 projects meet the criteria provided by Section 202.003;

2 (2) providing for public access to information on
3 financing assistance applications and providing for consideration
4 of public comment before financing decisions are made; and

5 (3) specifying the manner for prioritizing projects
6 for purposes of Section 202.004.

7 (b) The board shall give full consideration to the
8 recommendations of the advisory committee before adopting rules
9 under this chapter.

10 Sec. 202.007. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
11 Not later than December 1 of each even-numbered year, the board
12 shall provide a report to the governor, lieutenant governor,
13 speaker of the house of representatives, and members of the
14 legislature regarding the use of the fund.

15 (b) The board shall post the following information on the
16 board's Internet website regarding the use of the fund and
17 regularly update the information posted:

18 (1) the progress made in enhancing critical water,
19 electric, natural gas, and broadband infrastructure to withstand
20 periods of high demand; and

21 (2) a description of each project funded through the
22 fund, including the expected date of completion of the project.

23 Sec. 202.008. POLICIES AND PROCEDURES TO MITIGATE OR
24 MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall
25 adopt, and may amend from time to time at the board's discretion,
26 policies and procedures for the purpose of mitigating or minimizing
27 the adverse effects, if any, of federal laws and regulations

1 relating to income taxes, arbitrage, rebates, and related matters
2 that may restrict the board's ability to freely invest all or part
3 of the fund or to receive and retain all the earnings from the fund.

4 Sec. 202.009. COOPERATION WITH OTHER STATE AGENCIES. (a)
5 The commission, railroad commission, the State Energy Conservation
6 Office, and other state agencies shall provide resources to the
7 board that the board determines are necessary to carry out the
8 board's duties and responsibilities under this chapter.

9 (b) The board may require the commission to review and
10 recommend for approval electric utility, power generation company,
11 and broadband provider projects for board assistance under this
12 chapter and inspect electric utility, power generation company, and
13 broadband provider projects after board financial assistance.

14 (c) The board may require the railroad commission to review
15 and recommend for approval natural gas utility and power generation
16 projects for board assistance under this chapter and inspect
17 natural gas utility and power generation company projects after
18 board financial assistance.

19 (d) The board may require any other state agency to provide
20 services to the board to ensure the goals of the fund and this
21 chapter are met.

22 Sec. 202.010. RELIABILITY AND RESILIENCY STUDY AND PLAN.

23 (a) The board may, at any time, develop and conduct a study of the
24 needs, causes, and methods to address reliability and resiliency of
25 the industries affected by this chapter and may develop a statewide
26 reliability and resiliency plan.

27 (b) The board may, at any time, use money from the fund to

1 contract and engage outside entities to develop a study or plan
2 considered necessary by the board.

3 Sec. 202.011. CHANGES TO INDUSTRY STRUCTURE NOT IN CONFLICT
4 WITH CHAPTER. Any reconstruction or changes to the regulatory
5 market structures of the industries identified in this chapter are
6 not in conflict with the purpose of this chapter.

7 Sec. 202.012. PUBLIC PRIVATE PARTNERSHIPS. Money from the
8 fund may be used to make payments under a public and private entity
9 agreement to design, develop, finance, or construct a project
10 described by this chapter.

11 Sec. 202.013. METHODOLOGY AND STANDARDS FOR POWER
12 GENERATION FACILITY WEATHERIZATION. (a) The commission shall
13 develop a statistical methodology to determine the ambient
14 conditions to which each power generation facility must be
15 weatherized to comply with winter operations reliability
16 standards.

17 (b) A methodology or standard developed under Subsection
18 (a) may be used only to determine whether to provide financial
19 assistance or support to a project to weatherize a power generation
20 facility under this subtitle.

21 CHAPTER 203. STATE UTILITIES RELIABILITY REVENUE FUND

22 Sec. 203.001. REVENUE FUND. (a) The state utilities
23 reliability revenue fund is a special fund in the state treasury
24 outside the general revenue fund to be used by the board as
25 authorized by this chapter without further legislative
26 appropriation. The board may establish separate accounts in the
27 revenue fund and may transfer money between accounts. The board has

1 legal title to money and investments in the revenue fund until the
2 money is disbursed as provided by this chapter and board rules.

3 (b) Money deposited to the credit of the revenue fund may be
4 used only as provided by Section 203.003.

5 (c) The revenue fund consists of:

6 (1) money appropriated to the revenue fund;

7 (2) money transferred or deposited to the credit of
8 the revenue fund by law, including money from any source
9 transferred or deposited to the credit of the revenue fund at the
10 board's discretion as authorized by law;

11 (3) the proceeds of any fee or tax imposed by this
12 state that by statute is dedicated for deposit to the credit of the
13 revenue fund;

14 (4) any other revenue that the legislature by statute
15 dedicates for deposit to the credit of the revenue fund;

16 (5) investment earnings and interest earned on amounts
17 credited to the revenue fund;

18 (6) the proceeds from the sale of revenue bonds issued
19 by the board under this chapter that are designated by the board for
20 the purpose of providing money for the revenue fund;

21 (7) repayments of loans made from the revenue fund;

22 and

23 (8) money disbursed to the revenue fund from the state
24 utilities reliability fund as authorized by Section 202.003.

25 Sec. 203.002. MANAGEMENT AND INVESTMENT OF REVENUE FUND.

26 (a) Money deposited to the credit of the revenue fund shall be
27 invested as determined by the board. The revenue fund may be

1 invested with the state treasury pool.

2 (b) The revenue fund and any accounts established in the
3 revenue fund shall be kept and maintained by or at the direction of
4 the board.

5 (c) At the direction of the board, the revenue fund and any
6 accounts established in the revenue fund may be managed by the
7 board, the comptroller, or a corporate trustee that is a trust
8 company or a bank that has the powers of a trust company for and on
9 behalf of the board and, pending use of the revenue fund and
10 accounts for the purposes provided by this chapter, may be invested
11 as provided by an order, resolution, or rule of the board.

12 (d) The board, comptroller, or corporate trustee shall
13 manage the revenue fund in strict accordance with this chapter and
14 the orders, resolutions, and rules of the board.

15 Sec. 203.003. USE OF REVENUE FUND. (a) Money in the
16 revenue fund may be used by the board only to provide financial
17 assistance under terms specified by the board for projects that
18 enhance the reliability and resiliency of water, electric, natural
19 gas, broadband, and power generation facilities in this state,
20 including:

21 (1) projects that enhance the ability of facilities to
22 withstand periods of high demand;

23 (2) projects that reduce demand during periods of high
24 demand; and

25 (3) projects to weatherize facilities.

26 (b) Financial assistance for projects under Subsection (a)
27 may be provided in any form determined by the board that meets the

1 needs and goals of this state and the applicants, including a market
2 rate, low-interest, or no-interest loan, loan guarantee, equity
3 ownership in a public or private entity, a joint venture with a
4 public or private entity, a grant, an interest rebate, or an
5 interest subsidy.

6 (c) In providing financial assistance under Subsection (a),
7 the board may:

8 (1) make, enter into, and enforce contracts and
9 agreements, including management agreements, for the management of
10 any of the board's property, leases, indentures, mortgages, deeds
11 of trust, security agreements, pledge agreements, credit
12 agreements, overrides or other revenue sharing mechanisms,
13 repurchase agreements, and other instruments with any person,
14 including any lender and any federal, state, or local governmental
15 agency;

16 (2) contract with and provide for the compensation of
17 consultants and agents, including engineers, attorneys, management
18 consultants, financial advisors, indexing agents, and other
19 experts, as the business of the board may require; and

20 (3) take other actions to accomplish any of the board's
21 purposes.

22 (d) The board may use money in the revenue fund:

23 (1) as a source of revenue or security for the payment
24 of the principal of and interest on revenue bonds issued by the
25 board under this chapter;

26 (2) to pay the necessary and reasonable expenses of
27 paying agents, bond counsel, and financial advisory services and

1 similar costs incurred by the board in administering the revenue
2 fund; or

3 (3) to transfer money to the fund as necessary.

4 (e) The board, comptroller, or corporate trustee managing
5 the revenue fund at the direction of the board shall withdraw from
6 the revenue fund and pay to a person any amounts, as determined by
7 the board, for the timely payment of:

8 (1) the principal of and interest on bonds described
9 by Subsection (d)(1) that mature or become due; and

10 (2) any cost related to bonds described by Subsection
11 (d)(1) that become due, including payments under related credit
12 agreements.

13 (f) Money in the revenue fund may not be used for the purpose
14 of certification under Section 403.121, Government Code.

15 Sec. 203.004. ISSUANCE OF REVENUE BONDS. (a) The board may
16 issue revenue bonds for the purpose of providing money for the
17 revenue fund.

18 (b) The board may issue revenue bonds to refund revenue
19 bonds or bonds and obligations issued or incurred in accordance
20 with other provisions of law.

21 (c) Revenue bonds issued under this chapter are special
22 obligations of the board payable only from and secured by
23 designated income and receipts of the revenue fund, or of one or
24 more accounts in the revenue fund, including principal of and
25 interest paid and to be paid on revenue fund assets or income from
26 accounts created within the revenue fund by the board, as
27 determined by the board.

1 (d) Revenue bonds issued under this chapter do not
2 constitute indebtedness of the state as prohibited by the
3 constitution.

4 (e) The board may require revenue fund participants to make
5 charges, levy taxes, or otherwise provide for sufficient money to
6 pay acquired obligations.

7 (f) Revenue bonds issued under this chapter must be
8 authorized by resolution of the board and must have the form and
9 characteristics and bear the designations as the resolution
10 provides.

11 (g) Revenue bonds issued under this chapter may:

12 (1) bear interest at the rate or rates payable
13 annually or otherwise;

14 (2) be dated;

15 (3) mature at the time or times, serially, as term
16 revenue bonds, or otherwise in not more than 50 years from their
17 dates;

18 (4) be callable before stated maturity on the terms
19 and at the prices, be in the denominations, be in the form, either
20 coupon or registered, carry registration privileges as to principal
21 only or as to both principal and interest and as to successive
22 exchange of coupon for registered bonds or one denomination for
23 bonds of other denominations, and successive exchange of registered
24 revenue bonds for coupon revenue bonds, be executed in the manner,
25 and be payable at the place or places inside or outside the state,
26 as provided by the resolution;

27 (5) be issued in temporary or permanent form;

1 (6) be issued in one or more installments and from time
2 to time as required and sold at a price or prices and under terms
3 determined by the board to be the most advantageous reasonably
4 obtainable; and

5 (7) be issued on a parity with and be secured in the
6 manner as other revenue bonds authorized to be issued by this
7 chapter or may be issued without parity and secured differently
8 than other revenue bonds.

9 (h) Section 17.955, Water Code, applies to revenue bonds
10 issued under this chapter in the same manner as that section applies
11 to water financial assistance bonds.

12 (i) All proceedings relating to the issuance of revenue
13 bonds issued under this chapter shall be submitted to the attorney
14 general for examination. If the attorney general finds that the
15 revenue bonds have been authorized in accordance with law, the
16 attorney general shall approve the revenue bonds, and the revenue
17 bonds shall be registered by the comptroller. After the approval
18 and registration, the revenue bonds are incontestable in any court
19 or other forum for any reason and are valid and binding obligations
20 in accordance with their terms for all purposes.

21 (j) The proceeds received from the sale of revenue bonds
22 issued under this chapter may be deposited or invested in any manner
23 and in such investments as may be specified in the resolution or
24 other proceedings authorizing those obligations. Money in the
25 revenue fund or accounts created by this chapter or created in the
26 resolution or other proceedings authorizing the revenue bonds may
27 be invested in any manner and in any obligations as may be specified

1 in the resolution or other proceedings.

2 Sec. 203.005. CHAPTER CUMULATIVE OF OTHER LAWS. (a) This
3 chapter is cumulative of other laws on the subject, and the board
4 may use provisions of other applicable laws in the issuance of bonds
5 and other obligations, but this chapter is wholly sufficient
6 authority for the issuance of bonds and other obligations and the
7 performance of all other acts and procedures authorized by this
8 chapter.

9 (b) In addition to other authority granted by this chapter,
10 the board may exercise the authority granted to the governing body
11 of an issuer with regard to the issuance of obligations under
12 Chapter 1371, Government Code.

13 SECTION 4. Section 15.102(b), Water Code, is amended to
14 read as follows:

15 (b) The loan fund may also be used by the board to provide:

16 (1) grants or loans for projects that include
17 supplying water and wastewater services in economically distressed
18 areas or nonborder colonias as provided by legislative
19 appropriations, this chapter, and board rules, including projects
20 involving retail distribution of those services; ~~and~~

21 (2) grants for:

22 (A) projects for which federal grant funds are
23 placed in the loan fund;

24 (B) projects, on specific legislative
25 appropriation for those projects; or

26 (C) water conservation, desalination, brush
27 control, weather modification, regionalization, and projects

1 providing regional water quality enhancement services as defined by
2 board rule, including regional conveyance systems; and

3 (3) loans or grants to water utilities, as that term is
4 defined by Section 201.001, Utilities Code, for projects that
5 enhance the reliability and resiliency of those water utilities by
6 weatherizing facilities or reducing water demand through water
7 conservation and water demand reduction efforts.

8 SECTION 5. (a) The terms used in this section have the
9 meanings assigned by Section 201.001, Utilities Code, as added by
10 this Act.

11 (b) The executive administrator of the Texas Water
12 Development Board, in coordination with the Public Utility
13 Commission of Texas, the Texas Commission on Environmental Quality,
14 the Railroad Commission of Texas, the State Energy Conservation
15 Office, and the independent organization certified under Section
16 39.151, Utilities Code, for the ERCOT power region, shall conduct a
17 study regarding:

18 (1) the need for financial assistance from the state
19 to weatherize:

- 20 (A) water utility facilities;
- 21 (B) electric utility facilities;
- 22 (C) natural gas utility facilities;
- 23 (D) power generation companies; and
- 24 (E) broadband provider facilities;

25 (2) the need for financial assistance from the state
26 to provide adequate capacity during periods of high demand for
27 electric utilities and natural gas utilities, including by reducing

1 electric and natural gas demand; and

2 (3) the financing structures desirable to potential
3 applicants for the categories listed in Subdivisions (1) and (2) of
4 this subsection.

5 (c) The costs of the report, including any external
6 management or consulting services considered necessary, may be paid
7 from the state utilities reliability fund.

8 (d) The executive administrator shall submit the report to
9 the State Utilities Reliability Fund Advisory Committee not later
10 than March 1, 2023.

11 (e) This section expires September 1, 2023.

12 SECTION 6. As soon as practicable after the effective date
13 of this Act, the lieutenant governor and the speaker of the house of
14 representatives shall appoint the initial appointive members of the
15 State Utilities Reliability Fund Advisory Committee as provided by
16 Section 202.005, Utilities Code, as added by this Act.

17 SECTION 7. (a) Not later than June 1, 2023, the State
18 Utilities Reliability Fund Advisory Committee shall submit
19 recommendations to the Texas Water Development Board on the rules
20 to be adopted by the board under Section 202.006(a), Utilities
21 Code, as added by this Act.

22 (b) Not later than December 1, 2023, the board shall propose
23 rules under Section 202.006, Utilities Code, as added by this Act.

24 SECTION 8. The Texas Water Development Board shall post the
25 information described by Section 202.007(b), Utilities Code, as
26 added by this Act, on the board's Internet website not later than
27 March 1, 2022.

1 SECTION 9. (a) Except as provided by Subsection (b) of this
2 section:

3 (1) this Act takes effect on the date on which the
4 constitutional amendment proposed by the 87th Legislature, 2nd
5 Called Session, 2021, creating the state utilities reliability fund
6 and the state utilities reliability revenue fund to provide
7 financial support for projects that enhance the reliability and
8 resiliency of water, electric, and natural gas utilities, broadband
9 providers, and power generation companies in this state takes
10 effect; or

11 (2) if the amendment described by Subdivision (1) of
12 this subsection is not approved by the voters, this Act has no
13 effect.

14 (b) Regardless of whether the constitutional amendment
15 described by Subsection (a) of this section is approved by the
16 voters, Section 5 of this Act takes effect:

17 (1) immediately, if this Act receives a vote of
18 two-thirds of all the members elected to each house, as provided by
19 Section 39, Article III, Texas Constitution; or

20 (2) on the 91st day after the last day of the
21 legislative session, if this Act does not receive the vote
22 necessary for immediate effect.