

A BILL TO BE ENTITLED

AN ACT

relating to financial assistance provided and programs administered by the Texas Water Development Board.

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

SECTION 1. Chapter 15, Water Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. NEW WATER SUPPLY FOR TEXAS FUND

Sec. 15.151. DEFINITION. In this subchapter, "fund" means the new water supply for Texas fund.

Sec. 15.152. FUND. The new water supply for Texas fund is a special fund in the state treasury. The fund consists of:

(1) money appropriated for transfer or deposit to the credit of the fund;

(2) money the board transfers to the fund from an available source;

(3) depository interest allocable to the fund and other investment returns on money in the fund;

(4) money from gifts, grants, or donations to the fund; and

(5) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund.

Sec. 15.153. USE OF FUND. (a) The board by rule shall undertake to finance projects through the fund that will lead to the acquisition or creation of seven million acre-feet per year of new

1 water supplies by December 31, 2033.

2 (b) The fund may be used only to provide:

3 (1) financial assistance to political subdivisions to
4 develop water supply projects that create new water sources for the
5 state, including:

6 (A) the acquisition of water from other states;

7 (B) the development of infrastructure to
8 transport water from other states;

9 (C) desalination projects, including marine and
10 brackish water desalination; and

11 (D) produced water treatment projects, other
12 than projects that are only for purposes of oil and gas exploration;
13 or

14 (2) grants to institutions of higher education or
15 qualified research entities, as determined by the board, to conduct
16 research into new technology that may lead to the development of
17 significant new water supply sources, as determined by the board
18 based on the amount of water the technology may produce.

19 (c) The fund may be used to provide financial assistance for
20 any purpose described by Subsection (b) under criteria developed by
21 the board. A loan made under this subchapter may provide for
22 repayment terms of up to 30 years, in the board's discretion.

23 (d) Financial assistance described by Subsection (c) for a
24 purpose described by Subsection (b)(1):

25 (1) may be provided for a qualifying project under
26 Chapter 2267, Government Code; and

27 (2) may not be provided for expenses associated with

1 the maintenance or operation of a water supply project described by
2 Subsection (b)(1).

3 (e) The board may not provide financial assistance from the
4 fund if the balance of the fund is less than \$50 million.

5 Sec. 15.154. FINANCIAL ASSISTANCE. (a) The board shall
6 adopt rules necessary to administer this subchapter, including
7 rules establishing procedures for the application for and award of
8 loans, the distribution of loans, the investment of funds, and the
9 administration of loans and the fund.

10 (b) When evaluating an application for financial assistance
11 from a political subdivision, the board shall consider:

12 (1) the intended end users of the water supply, the
13 needs of the area to be served by the project, the expected benefit
14 of the project to the area, the relationship of the project to the
15 water needs of this state overall, and the relationship of the
16 project to the state water plan;

17 (2) the amount of water expected to be produced by the
18 project; and

19 (3) the availability of revenue to the political
20 subdivision or wholesale water provider from all sources for the
21 ultimate repayment of the cost of the project, including all
22 interest.

23 (c) The board by resolution may approve an application if,
24 after considering the factors listed in Subsection (b) and other
25 relevant factors, the board finds that:

26 (1) the public interest is served by state assistance
27 for the project; and

1 (2) the revenue or taxes pledged by the political
2 subdivision or wholesale water provider will be sufficient to meet
3 all the obligations assumed by the political subdivision or
4 wholesale water provider during the succeeding period of not more
5 than 30 years.

6 (d) The repayment of principal or interest on a loan made
7 under this subchapter must be deposited to the credit of the Texas
8 water fund.

9 (e) An application from a political subdivision or
10 wholesale water provider for financial assistance under this
11 subchapter must comply with the requirements of Section 16.4021.

12 (f) Sections 17.183-17.187 apply to the construction of
13 projects funded under this subchapter.

14 SECTION 2. Chapter 15, Water Code, is amended by adding
15 Subchapter H-1 to read as follows:

16 SUBCHAPTER H-1. TEXAS WATER FUND

17 Sec. 15.501. DEFINITION. In this subchapter, "fund" means
18 the Texas water fund.

19 Sec. 15.502. FUND. (a) The Texas water fund is a special
20 fund in the state treasury outside the general revenue fund. The
21 fund is administered by the board.

22 (b) The board may use the fund only to transfer money to:

23 (1) the water assistance fund established under
24 Subchapter B;

25 (2) the new water supply for Texas fund established
26 under Subchapter C-1;

27 (3) the state water implementation fund for Texas

1 established under Subchapter G;

2 (4) the state water implementation revenue fund for
3 Texas established under Subchapter H;

4 (5) a revolving fund established under Subchapter J;

5 (6) the rural water assistance fund established under
6 Subchapter R;

7 (7) the Texas Water Development Fund established under
8 Subchapter C, Chapter 17; and

9 (8) the Texas Water Development Fund II state
10 participation account established under Section 17.957.

11 (c) Money and investments in the fund shall be kept and held
12 for and in the name of the board.

13 (d) The comptroller may not use the fund for certification
14 under Section 49a, Article III, Texas Constitution.

15 (e) Money in the fund may be used only as provided by this
16 subchapter.

17 (f) The fund consists of:

18 (1) money transferred or deposited to the credit of
19 the fund by law, including money from any source transferred or
20 deposited to the credit of the fund as authorized by law;

21 (2) any other revenue that the legislature by statute
22 dedicates for deposit to the credit of the fund;

23 (3) investment earnings and interest earned on amounts
24 credited to the fund;

25 (4) money from gifts, grants, or donations to the
26 fund; and

27 (5) money returned from any authorized transfer.

1 Sec. 15.503. MANAGEMENT AND INVESTMENT OF FUND. (a) Money
2 in the fund shall be invested as determined by the board. If
3 managed by the comptroller, the fund may be invested with the state
4 treasury pool.

5 (b) The fund and any accounts established in the fund shall
6 be kept and maintained by or at the direction of the board.

7 (c) The money in the fund may be managed by the comptroller
8 or a corporate trustee that is a trust company or a bank that has the
9 powers of a trust company for and on behalf of the board and pending
10 the money's use for the purposes provided by this subchapter, if
11 managed by a corporate trustee, may be invested as provided by an
12 order, resolution, or rule of the board.

13 (d) If directed by the board to manage the fund under
14 Subsection (c), a corporate trustee shall manage the fund in strict
15 accordance with this subchapter and the orders, resolutions, and
16 rules of the board. In managing the assets of the fund, the board,
17 comptroller, or corporate trustee may acquire, exchange, sell,
18 supervise, manage, or retain any kind of investment that a prudent
19 investor, exercising reasonable care, skill, and caution, would
20 acquire or retain in light of the purposes, terms, distribution
21 requirements, and other circumstances of the fund then prevailing,
22 taking into consideration the investment of all the assets of the
23 fund rather than a single investment. The reasonable expenses of
24 managing the fund's assets shall be paid from the fund.

25 Sec. 15.504. USE OF FUND. (a) Subject to legislative
26 appropriation, the board may make transfers from the fund to a fund
27 or account described by Section 15.502(b) for an authorized purpose

1 of the receiving fund or account.

2 (b) The board may not transfer money to a fund or account
3 described by Section 15.502(b) until the application for the
4 project for which the money is to be used has been approved.

5 (c) The board shall ensure that a portion of the money
6 transferred from the fund is used for:

7 (1) water infrastructure projects to prevent or repair
8 water main failure, prioritized by risk or need, for:

9 (A) rural political subdivisions, as defined by
10 Section 15.992; and

11 (B) municipalities with a population of less than
12 150,000;

13 (2) projects for which all required state or federal
14 permitting has been completed;

15 (3) the statewide water conservation public awareness
16 program established under Section 16.401; and

17 (4) water conservation strategies for new residential
18 construction.

19 (d) Money transferred from the fund for the purposes
20 described by Subsection (c) may be transferred to funds or accounts
21 described by Section 15.502(b) to be used to provide low interest
22 loans, zero interest loans, negative interest loans, loan
23 forgiveness, or grants for any purpose described by Subsection (c)
24 under criteria developed by the board.

25 (e) Money deposited to the credit of the fund as provided by
26 Section 15.154(d) may be used only for the purposes described by
27 Section 15.153(b).

1 Sec. 15.505. ADVISORY COMMITTEE. (a) The State Water
2 Implementation Fund for Texas Advisory Committee established under
3 Section 15.438:

4 (1) shall submit comments and recommendations to the
5 board regarding the use of money in the fund for use by the board in
6 adopting rules under Section 15.506;

7 (2) shall review the overall operation, function, and
8 structure of the fund at least annually and may provide comments and
9 recommendations to the board on any matter; and

10 (3) may adopt rules, procedures, and policies as
11 needed to administer this section and implement its
12 responsibilities.

13 (b) The advisory committee may not recommend specific
14 projects for consideration for receipt of financial assistance from
15 the fund.

16 Sec. 15.506. RULES. (a) The board may adopt rules
17 providing for the use of money in the fund that are consistent with
18 this subchapter.

19 (b) Rules adopted under this section must require each
20 recipient of financial assistance administered through the fund to
21 submit to the board a water conservation plan consistent with the
22 requirements of Section 16.4021.

23 SECTION 3. Section 15.994(c), Water Code, is amended to
24 read as follows:

25 (c) The board may use money in the fund to contract for
26 outreach, financial, planning, and technical assistance to assist
27 rural political subdivisions [~~in obtaining and using financing from~~

1 ~~any source]~~ for a purpose described by this section, including in
2 obtaining and using financing from funds and accounts administered
3 by the board.

4 SECTION 4. Section 16.0121, Water Code, is amended by
5 adding Subsections (k) and (l) to read as follows:

6 (k) The board by rule shall establish a program to provide
7 technical assistance to retail public utilities in conducting water
8 audits required under Subsections (b) and (b-1) and in applying for
9 financial assistance from the board to mitigate the utility
10 system's water loss. The board may provide for the implementation
11 of the program established under this subsection by contracting or
12 partnering with other entities. Rules adopted under this section
13 must provide for the prioritization of technical assistance to
14 retail public utilities based on:

- 15 (1) water loss audits submitted to the board;
16 (2) the population served by the utility; and
17 (3) the integrity of the utility's system.

18 (l) The board shall post on the board's Internet website
19 information that:

20 (1) summarizes the information compiled under
21 Subsection (f);

22 (2) summarizes the measures taken by retail public
23 utilities to reduce water loss; and

24 (3) identifies the retail public utilities
25 participating in the program established under Subsection (k) and
26 details the use of financial assistance provided under that
27 subsection.

1 SECTION 5. Section 16.4021(b), Water Code, is amended to
2 read as follows:

3 (b) This section applies to an application for financial
4 assistance under:

5 (1) Subchapters C, C-1, D, E, G, H, J, O, Q, and R,
6 Chapter 15;

7 (2) Subchapters E and F of this chapter; and

8 (3) Subchapters D, F, I, K, and L, Chapter 17.

9 SECTION 6. Not later than January 1, 2024, the Texas Water
10 Development Board shall adopt rules as required by Section
11 16.0121(k), Water Code, as added by this Act.

12 SECTION 7. (a) Except as otherwise provided by this Act,
13 this Act takes effect September 1, 2023.

14 (b) Section 2 of this Act takes effect January 1, 2024, but
15 only if the constitutional amendment proposed by the 88th
16 Legislature, Regular Session, 2023, creating the Texas water fund
17 to assist in financing water projects in this state is approved by
18 the voters. If that constitutional amendment is not approved by
19 the voters, Section 2 of this Act has no effect.