

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. Section 10.010, Water Code, is amended to read as follows:

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water ~~conservation~~ public awareness program developed under Section 16.026 [~~16.401~~] and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation

1 strategies by water users included in regional water plans; and

2 (7) monitor target and goal guidelines for water  
3 conservation to be considered by the board and commission.

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

6 SUBCHAPTER C-1. NEW WATER SUPPLY FOR TEXAS FUND

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

9 Sec. 15.152. FUND. (a) The new water supply for Texas fund  
10 is a special fund in the state treasury administered by the board.  
11 The fund consists of:

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

14 (2) money the board transfers to the fund from any  
15 available source;

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

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

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

22 (b) The fund is exempt from the application of Section  
23 403.095, Government Code.

24 Sec. 15.153. USE OF FUND. (a) The board by rule shall  
25 undertake to finance projects through the fund that will lead to  
26 seven million acre-feet of new water supplies by December 31, 2033.

27 (b) The fund may be used to:

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

4                   (A) desalination projects, including marine and  
5 brackish water desalination;

6                   (B) produced water treatment projects, other  
7 than projects that are only for purposes of oil and gas exploration;

8                   (C) aquifer storage and recovery projects; and

9                   (D) the development of infrastructure to  
10 transport water that is made available by a project described by  
11 this subdivision;

12           (2) make transfers from the fund:

13                   (A) to the state water implementation fund for  
14 Texas established under Subchapter G or the Texas Water Development  
15 Fund II established under Subchapter L, Chapter 17; and

16                   (B) for a purpose described by Subdivision (1);  
17 and

18           (3) make transfers from the fund to the water bank  
19 account established under Section 15.707.

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

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

26                   (1) may be provided for a qualifying project under  
27 Chapter 2267, Government Code, only if the project complies with

1 that chapter; and

2 (2) may not be provided for expenses associated with  
3 the maintenance or operation of a water supply project described by  
4 Subsection (b)(1).

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 financial assistance, the distribution of financial assistance,  
9 the investment of funds, and the administration of financial  
10 assistance and the fund.

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

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

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

20 (3) the availability of money or revenue to the  
21 political subdivision from all sources for the ultimate repayment  
22 of the cost of the project, including all 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) for an application for financial assistance in the  
2 form of a loan, the money or revenue pledged by the political  
3 subdivision will be sufficient to meet all the obligations assumed  
4 by the political subdivision during the term of the loan.

5           (d) The repayment of principal or interest on a loan made  
6 under this subchapter must be deposited to the credit of the Texas  
7 water fund. This subsection does not apply to a loan made under  
8 other law with money transferred under Section 15.153(b)(2).

9           (e) An application from a political subdivision for  
10 financial assistance under this subchapter must comply with the  
11 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 3. Section 15.438(a), Water Code, is amended to  
15 read as follows:

16           (a) The State Water Implementation Fund for Texas Advisory  
17 Committee is composed of the following seven members:

18                 (1) the comptroller, or a person designated by the  
19 comptroller;

20                 (2) three members of the senate appointed by the  
21 lieutenant governor, including:

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

24                         (B) the chair [~~a member~~] of the committee of the  
25 senate having primary jurisdiction over water [~~natural~~] resources;  
26 and

27                         (3) three members of the house of representatives

1 appointed by the speaker of the house of representatives,  
2 including:

3 (A) a member of the committee of the house of  
4 representatives having primary jurisdiction over appropriations;  
5 and

6 (B) the chair [~~a member~~] of the committee of the  
7 house of representatives having primary jurisdiction over water  
8 [~~natural~~] resources.

9 SECTION 4. Section 15.472(a), Water Code, is amended to  
10 read as follows:

11 (a) The state water implementation revenue fund for Texas is  
12 a special fund in the state treasury outside the general revenue  
13 fund to be used by the board, without further legislative  
14 appropriation, only for the purpose of providing financing for  
15 projects included in the state water plan that are authorized under  
16 Subchapter C-1, Q, or R of this chapter, Subchapter E or F, Chapter  
17 16, or Subchapter J or L, Chapter 17. The board may establish  
18 separate accounts in the fund. The board has legal title to money  
19 and investments in the fund until the money is disbursed as provided  
20 by this subchapter and board rules. It is the intent of the  
21 legislature that the fund will never be used:

22 (1) for a purpose other than the support of projects in  
23 the state water plan; or

24 (2) to certify that appropriations from the treasury  
25 are within the amount estimated to be available in a fund of the  
26 treasury affected by the appropriation.

27 SECTION 5. Section 15.474(a), Water Code, is amended to

1 read as follows:

2 (a) Except as provided by Subsection (c), money in the fund  
3 may be used by the board only to provide financing or refinancing,  
4 under terms specified by the board, for projects included in the  
5 state water plan that are authorized under Subchapter C-1, Q, or R  
6 of this chapter, Subchapter E or F, Chapter 16, or Subchapter J or  
7 L, Chapter 17, including water conservation or reuse projects  
8 designed to reduce the need for this state or political  
9 subdivisions of this state to develop additional water resources.

10 SECTION 6. Chapter 15, Water Code, is amended by adding  
11 Subchapter H-1 to read as follows:

12 SUBCHAPTER H-1. TEXAS WATER FUND

13 Sec. 15.501. DEFINITION. In this subchapter, "fund" means  
14 the Texas water fund.

15 Sec. 15.502. FUND. (a) The Texas water fund is a special  
16 fund in the state treasury outside the general revenue fund. The  
17 fund is administered by the board.

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

19 (1) the water assistance fund established under  
20 Subchapter B;

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

23 (3) the state water implementation fund for Texas  
24 established under Subchapter G;

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

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

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

3           (7) the statewide water public awareness account  
4 established under Section 16.027;

5           (8) the Texas Water Development Fund II water  
6 financial assistance account established under Section 17.959; and

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

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

11           (d) Money in the fund may be used only as provided by this  
12 subchapter.

13           (e) The fund consists of:

14           (1) money transferred or deposited to the credit of  
15 the fund by law, including money appropriated by the legislature  
16 directly to the fund and money from any source transferred or  
17 deposited to the credit of the fund as authorized by law;

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

20           (3) investment earnings and interest earned on amounts  
21 credited to the fund;

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

24           (5) money returned from any authorized transfer.

25           Sec. 15.503. MANAGEMENT AND INVESTMENT OF FUND. (a) Money  
26 in the fund shall be held and invested by the Texas Treasury  
27 Safekeeping Trust Company, taking into account the purposes for



1 which money in the fund may be used.

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

4 (c) In managing the assets of the fund, the trust company  
5 may acquire, exchange, sell, supervise, manage, or retain any kind  
6 of investment that a prudent investor, exercising reasonable care,  
7 skill, and caution, would acquire or retain in light of the  
8 purposes, terms, distribution requirements, and other  
9 circumstances of the fund then prevailing, taking into  
10 consideration the investment of all the assets of the fund rather  
11 than a single investment. The reasonable expenses of managing the  
12 fund's assets shall be paid from the fund.

13 (d) Section 404.094(d), Government Code, applies to the  
14 fund.

15 Sec. 15.504. USE OF FUND. (a) The board by resolution may  
16 make transfers from the fund to a fund or account described by  
17 Section 15.502(b) for an authorized purpose of the receiving fund  
18 or account.

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

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

24 (1) water infrastructure projects, prioritized by  
25 risk or need, for:

26 (A) rural political subdivisions; and

27 (B) municipalities with a population of less than

1 150,000;

2 (2) projects for which all required state or federal  
3 permitting has been substantially completed, as determined by the  
4 board;

5 (3) the statewide water public awareness program  
6 established under Section 16.026;

7 (4) water conservation strategies; and

8 (5) water loss mitigation projects.

9 (d) Money transferred from the fund for the purposes  
10 described by Subsection (c) may be transferred to funds or accounts  
11 described by Section 15.502(b) to be used to provide financial  
12 assistance for any purpose described by Subsection (c) under  
13 criteria developed by the board and in accordance with law.

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

17 (f) The board may use the fund to pay the necessary and  
18 reasonable expenses of the board in administering the fund not to  
19 exceed two percent.

20 Sec. 15.505. TRANSFER OF MONEY. Notwithstanding any other  
21 law:

22 (1) the board may:

23 (A) transfer money from the fund into any other  
24 fund or account described by Section 15.502(b); and

25 (B) restore to the fund money transferred from  
26 the fund and deposited to the credit of a fund or account described  
27 by Section 15.502(b); and

1           (2) a fund or account described by Section 15.502(b)  
2 may accept a transfer of money made under this subchapter.

3           Sec. 15.506. ADVISORY COMMITTEE. (a) The State Water  
4 Implementation Fund for Texas Advisory Committee established under  
5 Section 15.438:

6           (1) shall submit comments and recommendations to the  
7 board regarding the use of money in the fund for use by the board in  
8 adopting rules under Section 15.507;

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

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

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

18           Sec. 15.507. RULES. (a) The board may adopt rules  
19 providing for the use of money in the fund that are consistent with  
20 this subchapter.

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

25           SECTION 7. Section 15.994(c), Water Code, is amended to  
26 read as follows:

27           (c) The board may use money in the fund to contract for

1 outreach, financial, planning, and technical assistance to assist  
2 rural political subdivisions [~~in obtaining and using financing from~~  
3 ~~any source~~] for a purpose described by this section, including in  
4 obtaining and using financing from funds and accounts administered  
5 by the board.

6 SECTION 8. Section 16.0121, Water Code, is amended by  
7 adding Subsections (k) and (l) to read as follows:

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

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

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

- 22 (1) summarizes the information compiled under  
23 Subsection (f);  
24 (2) summarizes the measures taken by retail public  
25 utilities to reduce water loss; and  
26 (3) identifies the retail public utilities  
27 participating in the program established under Subsection (k) and

1 details the use of financial assistance provided under that  
2 subsection.

3 SECTION 9. Section 16.401, Water Code, is transferred to  
4 Subchapter B, Chapter 16, Water Code, redesignated as Section  
5 16.026, Water Code, and amended to read as follows:

6 Sec. 16.026 [16.401]. STATEWIDE WATER [CONSERVATION]  
7 PUBLIC AWARENESS PROGRAM. (a) The executive administrator shall  
8 develop and implement a statewide water [conservation] public  
9 awareness program to educate residents of this state about water  
10 [conservation]. The program shall take into account the  
11 differences in water [conservation] needs of various geographic  
12 regions of the state and shall be designed to complement and support  
13 existing local and regional water education or awareness  
14 [~~conservation~~] programs.

15 (b) The executive administrator is required to develop and  
16 implement the program required by Subsection (a) in a state fiscal  
17 biennium only if the legislature appropriates sufficient money in  
18 that biennium specifically for that purpose.

19 SECTION 10. Subchapter B, Chapter 16, Water Code, is  
20 amended by adding Section 16.027 to read as follows:

21 Sec. 16.027. STATEWIDE WATER PUBLIC AWARENESS ACCOUNT. (a)  
22 The statewide water public awareness account is an account in the  
23 general revenue fund. The account consists of:

24 (1) money appropriated to the board for deposit to the  
25 credit of the account;

26 (2) money transferred by the board to the credit of the  
27 account from other funds available to the board;

1           (3) money from gifts or grants to the account from any  
2 source, including the federal government, an educational  
3 institution, or a private donor;

4           (4) proceeds from the sale of educational or public  
5 awareness materials, publications, and other items deposited to the  
6 credit of the account; and

7           (5) interest earned on the investment of money in the  
8 account and depository interest allocable to the account.

9           (b) The account may be used by the board to develop,  
10 administer, and implement the statewide water public awareness  
11 program established by Section 16.026.

12           (c) The account is exempt from the application of Section  
13 403.095, Government Code.

14           SECTION 11. Section 16.4021(b), Water Code, is amended to  
15 read as follows:

16           (b) This section applies to an application for financial  
17 assistance under:

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

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

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

22           SECTION 12. Not later than January 1, 2024, the Texas Water  
23 Development Board shall adopt rules as required by Section  
24 16.0121(k), Water Code, as added by this Act.

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

27           (b) Section 6 of this Act takes effect January 1, 2024, but

1 only if the constitutional amendment proposed by the 88th  
2 Legislature, Regular Session, 2023, creating the Texas water fund  
3 to assist in financing water projects in this state is approved by  
4 the voters. If that constitutional amendment is not approved by  
5 the voters, Section 6 of this Act has no effect.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 28 passed the Senate on April 3, 2023, by the following vote: Yeas 31, Nays 0; May 22, 2023, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2023, House granted request of the Senate; May 28, 2023, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 28 passed the House, with amendments, on May 17, 2023, by the following vote: Yeas 136, Nays 8, one present not voting; May 23, 2023, House granted request of the Senate for appointment of Conference Committee; May 28, 2023, House adopted Conference Committee Report by the following vote: Yeas 134, Nays 4, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor