

1-1 By: Duncan S.B. No. 1053
1-2 (In the Senate - Filed March 7, 2003; March 17, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 March 31, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; March 31, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1053 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain water pollution and conservation programs
1-11 administered by the Texas Water Development Board.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 15.602, Water Code, is amended by adding
1-14 Subdivision (5-a) to read as follows:

1-15 (5-a) "Eligible lending institution" means a
1-16 financial institution that makes commercial loans, is either a
1-17 depository of state funds or an institution of the Farm Credit
1-18 System headquartered in this state, agrees to participate in a
1-19 linked deposit program established under Section 15.611 and to
1-20 provide collateral equal to the amount of linked deposits placed
1-21 with it, and meets any other requirements established by board
1-22 rule.

1-23 SECTION 2. Section 15.603, Water Code, is amended by adding
1-24 Subsection (i) to read as follows:

1-25 (i) In addition to authorized purposes under Subsection
1-26 (a), the revolving fund is held by the board to provide linked
1-27 deposits to eligible financial institutions for loans to persons
1-28 for nonpoint source pollution control projects.

1-29 SECTION 3. Subsection (a), Section 15.604, Water Code, is
1-30 amended to read as follows:

1-31 (a) The board may use the revolving fund for financial
1-32 assistance only as provided by the federal act:

1-33 (1) to make loans, on the conditions that:

1-34 (A) those loans are made at or below market
1-35 interest rates, including interest-free loans, at terms not to
1-36 exceed 20 years;

1-37 (B) principal and interest payments will begin
1-38 not later than one year after completion of any treatment works and
1-39 all loans will be fully amortized not later than 20 years after
1-40 completion of the treatment works;

1-41 (C) the recipient of a loan will establish a
1-42 dedicated source of revenue for repayment of loans; and

1-43 (D) the revolving fund will be credited with all
1-44 payments of principal of and interest on all loans;

1-45 (2) to buy or refinance the debt obligation of
1-46 political subdivisions at or below market rates if the debt
1-47 obligations were incurred after March 7, 1985;

1-48 (3) to guarantee or purchase insurance for political
1-49 subdivisions if the guarantee or insurance would improve access to
1-50 market credit or reduce interest rates;

1-51 (4) as a source of revenue or security for the payment
1-52 of principal and interest on bonds issued by the state if the
1-53 proceeds of the sale of those bonds will be deposited in the
1-54 revolving fund;

1-55 (5) to provide loan guarantees to similar revolving
1-56 funds established by municipalities or intermunicipal agencies;

1-57 (6) to earn interest on revolving fund accounts;

1-58 (7) for the reasonable costs of administering the
1-59 revolving fund and conducting activities provided for by Title VI
1-60 of the federal act, except that those amounts may not exceed the
1-61 amount authorized under Title VI of the federal act;

1-62 (8) to provide financial assistance to persons for a
1-63 nonpoint source pollution control project under Section 319 of the

federal act or for an estuary management project under Section 320 of the federal act; ~~and~~

(9) for other purposes as provided by the federal act; and

(10) to provide linked deposits to eligible lending institutions for loans to persons for nonpoint source pollution control projects.

SECTION 4. Subchapter J, Chapter 15, Water Code, is amended by adding Sections 15.610 through 15.618 to read as follows:

Sec. 15.610. LINKED DEPOSIT. A linked deposit is a deposit governed by a written deposit agreement between the board and an eligible lending institution that provides that:

(1) the eligible lending institution pay interest on the deposit at a rate determined by the board;

(2) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) the eligible lending institution agree to lend the value of the deposit to a person at a maximum rate that is the rate paid by the eligible lending institution to the board plus a maximum of four percent.

Sec. 15.611. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish a nonpoint source pollution control linked deposit program in accordance with this subchapter.

(b) An eligible lending institution may participate in the program established under this section as provided by this subchapter.

Sec. 15.612. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the nonpoint source pollution control linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of a proposed nonpoint source pollution control project;

(2) review applications to determine if applicants are eligible and creditworthy; and

(3) submit the applications of eligible and creditworthy applicants to the executive administrator with a certification:

(A) of the interest rate applicable to each applicant by the eligible lending institution; and

(B) of the proposed project by the appropriate person as required by Section 15.613.

Sec. 15.613. CERTIFICATION OF PROJECT. (a) An eligible lending institution must obtain from a director of a soil and water conservation district certification of an agricultural or silvicultural nonpoint source pollution control project proposed for the district. The certification must state that:

(1) the applicant of the proposed project has a water quality management plan certified by the State Soil and Water Conservation Board; and

(2) the project furthers or implements the plan.

(b) An eligible lending institution must obtain from the executive director certification of a proposed nonpoint source pollution control project that is not an agricultural or silvicultural nonpoint source pollution control project. The certification must state that the applicant's proposed project implements the state's nonpoint source pollution management plan.

Sec. 15.614. APPROVAL OR REJECTION OF APPLICATION. The board may approve or reject an application of an eligible lending institution to participate in the program. The board may delegate its authority to approve or reject an application to the executive director.

Sec. 15.615. DEPOSIT AGREEMENT. If the board approves an application of an eligible lending institution, the board and the eligible lending institution shall enter into a written deposit agreement. The agreement shall contain the conditions on which the linked deposit is made. On execution of the agreement, the board shall place a linked deposit from the revolving fund with the

3-1 eligible lending institution in accordance with the agreement. A
 3-2 delay in payment or a default on a loan by an applicant does not
 3-3 affect the validity of the deposit agreement.

3-4 Sec. 15.616. COMPLIANCE. (a) On accepting a linked
 3-5 deposit, an eligible lending institution must lend money to an
 3-6 approved applicant in accordance with the deposit agreement and
 3-7 this subchapter. The eligible lending institution shall forward a
 3-8 compliance report to the board in accordance with board rules. The
 3-9 board shall adopt rules regarding the compliance report.

3-10 (b) The board shall monitor compliance with this subchapter
 3-11 and inform the comptroller of noncompliance on the part of an
 3-12 eligible lending institution.

3-13 Sec. 15.617. STATE LIABILITY PROHIBITED. The state is not
 3-14 liable to an eligible lending institution for payment of the
 3-15 principal, interest, or any late charges on a loan made to an
 3-16 approved applicant. A linked deposit is not an extension of the
 3-17 state's credit within the meaning of any state constitutional
 3-18 prohibition.

3-19 Sec. 15.618. LIMITATIONS ON PROGRAM. (a) The maximum
 3-20 amount of a loan under the linked deposit program is \$250,000.

3-21 (b) The board may withdraw linked deposits from an eligible
 3-22 lending institution if the institution ceases to be either a state
 3-23 depository or a Farm Credit System institution headquartered in
 3-24 this state.

3-25 SECTION 5. Subdivisions (3) through (6), Section 17.871,
 3-26 Water Code, are amended to read as follows:

3-27 (3) "Eligible lending institution" means a financial
 3-28 institution that makes commercial loans, is either a depository of
 3-29 state funds or an institution of the Farm Credit System
 3-30 headquartered in this state, agrees to participate in a linked
 3-31 deposit program established under Section 17.905 and to provide
 3-32 collateral equal to the amount of linked deposits placed with it,
 3-33 and meets any other requirements established by board rule
 3-34 ~~["Conservation loan" means a loan from the board to a borrower~~
 3-35 ~~district or from a lender district to an individual borrower].~~

3-36 (4) "Fund" means the agricultural water conservation
 3-37 fund authorized by Section 50-d, Article III, of the Texas
 3-38 Constitution.

3-39 (5) "Person" means an individual, corporation,
 3-40 partnership, association, or other legal entity that is not a
 3-41 political subdivision ~~["Individual borrower" means a person who~~
 3-42 ~~receives or is eligible to receive a conservation loan from a lender~~
 3-43 ~~district].~~

3-44 (6) "Political subdivision" includes a district or
 3-45 authority created under Section 52, Article III, or Section 59,
 3-46 Article XVI, of the Texas Constitution, a municipality, a county,
 3-47 an institution of higher education as defined by Section 61.003,
 3-48 Education Code, any interstate compact commission to which the
 3-49 state is a party, and any nonprofit water supply corporation
 3-50 created and operating under Chapter 67 ~~["Lender district" means a~~
 3-51 ~~political subdivision, including a soil and water conservation~~
 3-52 ~~district under Chapter 201, Agriculture Code, a groundwater~~
 3-53 ~~conservation district created under Article XVI, Section 59, of the~~
 3-54 ~~Texas Constitution, or a district or authority created under~~
 3-55 ~~Article III, Section 52(b)(1), or Article XVI, Section 59, of the~~
 3-56 ~~Texas Constitution authorized to supply water for irrigation~~
 3-57 ~~purposes, that is eligible to receive or that receives a loan from~~
 3-58 ~~the board for the purpose of making conservation loans to~~
 3-59 ~~individual borrowers].~~

3-60 SECTION 6. Subsections (c) and (d), Section 17.879, Water
 3-61 Code, are amended to read as follows:

3-62 (c) By rule or in the resolution or order authorizing
 3-63 issuance of bonds or other resolution or order of the board, the
 3-64 board may establish an interest and sinking fund and may establish
 3-65 accounts in the funds, including an interest and sinking account,
 3-66 and may transfer money among the funds and accounts ~~[fund].~~

3-67 (d) The board may invest and reinvest money in the fund, the
 3-68 interest and sinking fund, and any account therein in any
 3-69 obligations or securities as provided by bond resolutions, ~~[and]~~

orders of the board, and Section 404.024, Government Code.

SECTION 7. Subsection (a), Section 17.880, Water Code, is amended to read as follows:

(a) Loans, bonds of political subdivisions [~~borrower districts or lender districts~~], and other obligations owned by the state and deposited in the fund or in the interest and sinking fund are considered to be securities under this subchapter.

SECTION 8. Subsection (b), Section 17.881, Water Code, is amended to read as follows:

(b) The board shall sell the loans or bonds of political subdivisions [~~borrower districts or lender districts~~] at the price and under the terms that it determines to be reasonable.

SECTION 9. Section 17.883, Water Code, is amended to read as follows:

Sec. 17.883. BOND REVIEW BOARD. Bonds may not be issued under this subchapter unless the issuance of the bonds has been reviewed and approved by the bond review board. Prior to issuance of bonds, the board shall estimate demand for [~~agricultural water~~] conservation programs or projects [~~loans~~] based on a survey of [~~districts~~] eligible participants [~~to participate~~] in the program. A summary of this information shall be furnished to the bond review board.

SECTION 10. Section 17.894, Water Code, is amended to read as follows:

Sec. 17.894. BOND ENHANCEMENT AGREEMENTS; PAYMENT OF EXPENSES. (a) The board at any time and from time to time may enter into one or more bond enhancement agreements that the board determines to be necessary or appropriate to place the obligation of the board, as represented by the bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. A bond enhancement agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the board approves.

(b) The fees and expenses of the board in connection with the issuance of the bonds and the providing of financial assistance to political subdivisions may be paid from money in the fund, provided that any payments due from the board under a bond enhancement agreement, other than fees and expenses, that relate to the payment of debt service on the bonds constitute payments of principal of and interest on the bonds.

(c) Bond enhancement agreements may include, on terms and conditions approved by the board, interest rate swap agreements; currency swap agreements; forward payment conversion agreements; agreements providing for payments based on levels of or changes in interest rates or currency exchange rates; agreements to exchange cash flows or a series of payments; agreements, including options, puts, or calls, to hedge payment, currency, rate, spread, or other exposure; or other agreements that further enhance the marketability, security, or creditworthiness of water financial assistance bonds [~~USE OF FUND.~~ (a) The board may use money in the fund to make conservation loans directly to borrower districts, to make loans to lender districts, and to pay the cost of bond issuance.

[~~(b) The board may use money in the fund:~~
~~(1) to make loans to political subdivisions other than lender districts for agricultural water conservation projects;~~

~~(2) to make grants to political subdivisions for agricultural water conservation projects as provided by legislative appropriation; or~~

~~(3) to make grants to a state agency for the funding of any agricultural water conservation program of that agency, including a program in which the state agency provides funding to a political subdivision or a person for agricultural water conservation, as provided by legislative appropriation].~~

SECTION 11. Section 17.895, Water Code, is amended to read as follows:

Sec. 17.895. SOURCES OF ASSETS. The fund is composed of:

(1) money and assets, including bond proceeds,

attributable to the bonds;

(2) investment income earned on money on deposit in the fund and depository interest earned on money on deposit in the state treasury;

(3) money appropriated by the legislature;

(4) repayments of principal and interest on loans made under this subchapter;

(5) administrative fees charged by the board under the bond program; and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the fund [CONSERVATION LOANS. (a) This section applies only to a conservation loan from a lender district that is:

[(1) a soil and water conservation district under Chapter 201, Agriculture Code;

[(2) a groundwater conservation district created under Section 59, Article XVI, Texas Constitution; or

[(3) a district or authority created under Section 52(b)(1), Article III, or Section 59, Article XVI, Texas Constitution.

[(b) The board or a lender district may make conservation loans for capital equipment or materials, labor, preparation costs, and installation costs:

[(1) to improve water use efficiency of water delivery and application on existing irrigation systems;

[(2) for preparing irrigated land to be converted to dryland conditions; and

[(3) for preparing dryland for more efficient use of natural precipitation.

[(c) Conservation loans for the purposes listed in Subsection (b) may be made by lender districts to individual borrowers for use on private property or by the board to borrower districts.

[(d) The board may make conservation loans to borrower districts for the cost of purchasing and installing devices, on public or private property, designed to indicate the amount of water withdrawn for irrigation purposes.

[(e) For purposes of this section, the board or lender districts may seek the advice of the Department of Agriculture regarding the feasibility of a project for which a conservation loan is sought].

SECTION 12. Section 17.896, Water Code, is amended to read as follows:

Sec. 17.896. REPAYMENT PROCEEDS. The board shall designate a transfer of repayment of principal and interest on a loan made under this subchapter to the fund, the interest and sinking fund, or any account in the funds [INTEREST RATES AND FEES. (a) The board shall establish the rate of interest it charges for loans to lender districts or for conservation loans to borrower districts.

[(b) A lender district may charge individual borrowers an interest rate not to exceed the interest rate the lender district is charged by the board, plus one percent for administrative expenses.

[(c) A lender district may charge individual borrowers a one-time application fee in an amount determined by the board to cover costs of processing loan applications].

SECTION 13. Section 17.897, Water Code, is amended to read as follows:

Sec. 17.897. CONSERVATION PROGRAM. (a) A conservation program is:

(1) an agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code;

(2) a research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation;

(3) a precipitation enhancement program in an area of the state where the program, in the board's judgment, would be most

effective; and

(4) any other agricultural water conservation program defined by board rule.

(b) The costs of a conservation program eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the program ~~[APPLICATION. A lender district that desires to obtain loans or a borrower district that desires to obtain conservation loans under this subchapter shall file with the executive administrator an application in the manner and in the form provided by board rules].~~

SECTION 14. Section 17.898, Water Code, is amended to read as follows:

Sec. 17.898. CONSERVATION PROJECT. (a) A conservation project is a project that:

(1) improves water use efficiency of water delivery and application on existing irrigation systems;

(2) prepares irrigated land for conversion to dryland conditions;

(3) prepares dryland for more efficient use of natural precipitation;

(4) purchases and installs on public or private property devices designed to indicate the amount of water withdrawn for irrigation purposes;

(5) prepares and maintains land to be used for brush control activities in areas of the state where those activities in the board's judgment would be most effective, including activities conducted under Chapter 203, Agriculture Code; or

(6) implements any other agricultural water conservation project defined by board rule.

(b) The costs of a conservation project eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the project ~~[CONSIDERATIONS IN PASSING ON AN APPLICATION. (a) In passing on an application from a lender district, the board shall consider the lender district's ability to manage a loan program, ability to repay any loan defaults, and overall conservation program.~~

~~[(b) In passing on an application from a borrower district, the board shall consider the ability of the borrower district to repay the conservation loan and whether the conservation loan will further water conservation].~~

SECTION 15. Section 17.899, Water Code, is amended to read as follows:

Sec. 17.899. ELIGIBLE FUND USES. (a) Money in the fund, excluding money in the interest and sinking fund, may be used by the board to:

(1) provide a grant to a state agency to fund a conservation program or conservation project, including a conservation program that provides funding to a political subdivision or person for a conservation project, as provided by legislative appropriation;

(2) provide a grant or loan to a political subdivision for a conservation program or conservation project;

(3) provide a linked deposit to an eligible financial institution for a loan to a person for a conservation project;

(4) pay for a board conservation program;

(5) make a transfer to the interest and sinking fund;

(6) pay the costs of a bond issuance; and

(7) pay for a board expense in administering the agricultural water conservation program under this subchapter.

(b) Money in the interest and sinking fund may be used for the payment of bonds or, to the extent there are funds in excess of bond payment requirements, for transfers to the fund, or any other account in the funds ~~[APPROVAL OF APPLICATIONS. (a) The board may approve an application if, after considering the factors in Section 17.898 and other relevant factors, the board finds that:~~

~~[(1) the public interest would be served in granting the application,~~

~~[(2) a lender district has the ability to make conservation loans, manage a conservation loan program, and repay the loan to the board,~~

~~[(3) a borrower district has the ability to repay the conservation loan, and~~

~~[(4) granting the application will further water conservation in the state.~~

~~[(b) The board by rule may delegate to the executive administrator the authority to approve an application based on the considerations in Section 17.898 and on the findings in Subsection (a)].~~

SECTION 16. Section 17.900, Water Code, is amended to read as follows:

Sec. 17.900. GRANT TO STATE AGENCY. (a) A state agency seeking a grant for a conservation program or conservation project as provided by legislative appropriation must file an application with the board.

(b) In reviewing an application for a grant, the board shall consider the terms of the legislative appropriation language. To approve the grant, the board shall make the determination required by the legislative language.

(c) The board may make money available to a state agency in any manner that it considers feasible, including a grant agreement with the state agency ~~[METHODS OF MAKING LOANS AND ENFORCING OBLIGATIONS.~~ (a) The board may make financial assistance available to lender or borrower districts in any manner that it considers economically feasible, including purchase of bonds or securities of the lender or borrower district, or by entering into a contract with the lender or borrower district. The board shall not purchase bonds or securities that have not been approved by the attorney general and registered by the comptroller.

~~[(b) In the event of default in payment of the principal of or interest on bonds or securities purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds or the default of any of the terms of a contract, the attorney general shall institute legal proceedings by mandamus or other legal remedies to compel the lender or borrower district or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court in Travis County.~~

~~[(c) This section is cumulative of any other rights or remedies to which the board may be entitled].~~

SECTION 17. Section 17.901, Water Code, is amended to read as follows:

Sec. 17.901. GRANT OR LOAN TO POLITICAL SUBDIVISION. The board may make a grant or loan to a political subdivision for a conservation program or conservation project. A political subdivision seeking a grant or loan must file an application with the board ~~[DEFAULT AND FORECLOSURE BY LENDER DISTRICTS.~~ (a) In the event of a default in payment of a conservation loan made by a lender district or the failure of an individual borrower to perform any of the terms or conditions of the conservation loan agreement, the lender district shall pursue all remedies available under law, including without limitation foreclosure under the conservation loan agreement and liquidation of any collateral provided under the conservation loan agreement. The lender district shall sell the collateral on terms and subject to procedures that it follows in liquidating other collateral.

~~[(b) Foreclosure under a conservation loan agreement shall be accomplished in the manner provided by law for foreclosure of similar loan agreements made by private lending institutions and by the conservation loan agreement.~~

~~[(c) The state guarantees to each lender district that in the event an individual borrower defaults on a conservation loan made by the lender district with money from this program, the state will assume 50 percent of the amount that remains due and payable~~

~~under the default after all collateral for the conservation loan is liquidated.~~

~~[(d) The state is entitled to recover its pro rata share of any money recovered on a defaulted conservation loan on which the state has assumed liability under Subsection (c)].~~

SECTION 18. Section 17.902, Water Code, is amended to read as follows:

Sec. 17.902. REVIEW OF APPLICATION FOR AND APPROVAL OF GRANT. (a) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has used other available resources to finance the use for which the application is being made;

(2) the willingness and ability of the political subdivision to raise revenue;

(3) the commitment of the political subdivision to water conservation; and

(4) the benefits that will be gained by making the grant.

(b) To approve a grant to a political subdivision, the board must find that:

(1) the grant funds will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further water conservation in the state ~~[AUTHORITY OF DISTRICTS. A lender or borrower district may borrow and lend money for the purposes of this subchapter and may adopt necessary rules to carry out this subchapter].~~

SECTION 19. Subchapter J, Chapter 17, Water Code, is amended by adding Sections 17.9021 and 17.9022 to read as follows:

Sec. 17.9021. APPLICATION FOR AND APPROVAL OF LOAN.

(a) In reviewing an application by a political subdivision for a loan, the board shall consider the ability of the political subdivision to repay the loan and whether the loan will further water conservation in this state.

(b) To approve a loan to a political subdivision, the board must determine that:

(1) the public interest is served by providing the loan;

(2) the political subdivision has the ability to repay the loan; and

(3) the loan will further water conservation in the state.

(c) The board by rule shall establish the rate of interest it charges for a loan to a political subdivision.

Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL SUBDIVISION; DEFAULT; VENUE. (a) The board may make a loan or grant available to a political subdivision in any manner the board considers economically feasible, including purchase of bonds or securities of the political subdivision or execution of a loan or grant agreement with the political subdivision. The board may not purchase bonds or securities that have not been approved by the attorney general and registered by the comptroller.

(b) In the event of a default in payment of the principal of or interest on bonds or securities purchased by the board, or any other default as defined in the proceedings or indentures authorizing the issuance of bonds, or a default of any of the terms of a loan agreement, the attorney general shall seek a writ of mandamus or other legal remedy to compel the political subdivision or its officers, agents, and employees to cure the default by performing the duties they are legally obligated to perform. The proceedings shall be brought and venue is in a district court in Travis County. This subsection is cumulative of any other rights or remedies to which the board may be entitled.

SECTION 20. Section 17.903, Water Code, is amended to read as follows:

Sec. 17.903. CONTRACT AUTHORITY. (a) A political subdivision may borrow money for the purposes of this subchapter

and may adopt necessary rules to carry out this subchapter ~~[RULES AND CONTRACTS. (a) The board shall adopt rules necessary to carry out this subchapter. The board by rule shall identify methods to be used by lender districts to ensure the financial integrity of a loan to an individual borrower, including an irrevocable letter of credit or a lien on property in excess of value of improvements]~~.

(b) ~~[The board by rule may establish:~~
~~[(1) procedures for applying for a loan or grant under Section 17.894(b);~~
~~[(2) procedures for considering and approving applications and for making loans or grants under Section 17.894(b); and~~
~~[(3) the rate of interest the board charges, if any, for loans under Section 17.894(b).]~~

~~[(c)]~~ The board shall have the power to enter into any contracts to carry out the provisions of this subchapter.

SECTION 21. Subchapter J, Chapter 17, Water Code, is amended by adding Sections 17.904 through 17.912 to read as follows:

Sec. 17.904. LINKED DEPOSIT. A linked deposit is a deposit governed by a written deposit agreement between the board and an eligible lending institution that provides that:

(1) the eligible lending institution pay interest on the deposit at a rate determined by the board;

(2) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) the eligible lending institution agree to lend the value of the deposit to a person at a maximum rate that is the rate paid by the eligible lending institution to the board plus a maximum of four percent.

Sec. 17.905. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish an agricultural water conservation linked deposit program in accordance with this subchapter.

(b) An eligible lending institution may participate in the program established under this section as provided by this subchapter.

Sec. 17.906. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the agricultural water conservation linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of an agricultural water conservation project;

(2) review applications to determine if applicants are eligible and creditworthy; and

(3) submit the applications of eligible and creditworthy applicants to the executive administrator with a certification:

(A) of the interest rate applicable to each applicant by the eligible lending institution; and

(B) of the soil and water conservation district in which an applicant is located by a director of the district that states that:

(i) the applicant of the proposed project has a soil and water conservation plan approved by the district; and

(ii) the project furthers or implements the plan.

Sec. 17.907. APPROVAL OR REJECTION OF APPLICATION. The board may approve or reject an application of an eligible lending institution to participate in the program. The board may delegate its authority to approve or reject applications to the executive director.

Sec. 17.908. DEPOSIT AGREEMENT. If the board approves an application of an eligible lending institution, the board and the eligible lending institution shall enter into a written deposit agreement. The agreement shall contain the conditions on which the linked deposit is made. On execution of the agreement, the board shall place a linked deposit from the fund with the eligible lending institution in accordance with the agreement. A delay in payment or

a default on a loan by an applicant does not affect the validity of the deposit agreement.

Sec. 17.909. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must lend money to an approved applicant in accordance with the deposit agreement and this subchapter. The eligible lending institution shall forward a compliance report to the board in accordance with board rules. The board shall adopt rules regarding the compliance report.

(b) The board shall monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Sec. 17.910. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made to an approved applicant. A linked deposit is not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 17.911. LIMITATIONS ON PROGRAM. (a) The maximum amount of a loan under the linked deposit program is \$250,000.

(b) The board may withdraw linked deposits from an eligible lending institution if the institution ceases to be either a state depository or a Farm Credit System institution headquartered in this state.

Sec. 17.912. RULES. The board shall adopt rules necessary to carry out this subchapter. Applications shall be in the form and manner as provided by board rules.

SECTION 22. The agricultural trust fund and the agricultural soil and water conservation fund are abolished and all assets of those funds are transferred to the agricultural water conservation fund.

SECTION 23. The following provisions of the Water Code are repealed:

(1) Subchapters G, H, and I, Chapter 15; and

(2) Subdivision (2), Section 17.871, Subdivision (7), Section 17.871, and Section 17.8955.

SECTION 24. The Texas Water Development Board shall continue to administer a loan made before the effective date of this Act under the pilot program for low-interest loans for agricultural water conservation equipment until the loan is fully repaid. Subchapter I, Chapter 15, Water Code, is continued in effect for the limited purpose of allowing the board to administer those loans and to pursue remedies if a loan recipient defaults on a loan or otherwise violates the terms of the loan or of any loan guarantee instrument.

SECTION 25. The Texas Water Development Board shall continue to administer a conservation loan made before the effective date of this Act under Subchapter J, Chapter 17, Water Code. Subchapter J, Chapter 17, Water Code, as it existed immediately before the effective date of this Act, is continued in effect for the limited purpose of allowing the board to administer those loans and to pursue remedies if a loan recipient defaults on a loan or otherwise violates the terms of the loan or of any loan guarantee.

SECTION 26. This Act takes effect September 1, 2003.

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