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H.B. No. 4

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the funding of certain water-related projects by the
3 Texas Water Development Board; authorizing the issuance of revenue
4 bonds.

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

6 SECTION 1. (a) The legislature recognizes the importance
7 of providing for this state's future water supply needs. The
8 purpose of this Act is to ensure that proper funding in the form of
9 meaningful and adequate financial assistance is available to
10 provide an adequate water supply for the future of this state.

11 (b) To accomplish that purpose, this Act creates the state
12 water implementation fund for Texas. The fund is intended to serve
13 as a water infrastructure bank in order to enhance the financing
14 capabilities of the Texas Water Development Board under
15 constitutionally created programs and revenue bond programs. The
16 fund provides a source of revenue or security for those programs and
17 provides a revolving cash flow mechanism that recycles money used
18 in board programs back to the fund to provide protection for the
19 fund's corpus. Money in the fund will be available immediately to
20 provide support for low-interest loans, longer repayment terms for
21 loans, incremental repurchase terms for projects in which the state
22 owns an interest, and deferral of loan payments. In addition, this
23 Act creates the state water implementation revenue fund for Texas
24 for use in managing revenue bonds issued by the board that are

1 supported by the state water implementation fund for Texas.

2 SECTION 2. Chapter 15, Water Code, is amended by adding
3 Subchapters G and H to read as follows:

4 SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

5 Sec. 15.431. DEFINITIONS. In this subchapter:

6 (1) "Advisory committee" means the State Water
7 Implementation Fund for Texas Advisory Committee.

8 (2) "Fund" means the state water implementation fund
9 for Texas.

10 (3) "Historically underutilized business" has the
11 meaning assigned by Section 2161.001, Government Code.

12 (4) "Trust company" means the Texas Treasury
13 Safekeeping Trust Company.

14 Sec. 15.432. FUND. (a) The state water implementation fund
15 for Texas is a special fund outside the state treasury to be used by
16 the board, without further legislative appropriation, for the
17 purpose of implementing the state water plan as provided by this
18 subchapter. The board may establish separate accounts in the fund.
19 The fund and the fund's accounts are kept and held by the trust
20 company for and in the name of the board. The board has legal title
21 to money and investments in the fund until money is disbursed from
22 the fund as provided by this subchapter and board rules. It is the
23 intent of the legislature that the fund remain outside the state
24 treasury in perpetuity and that the fund will never be used:

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

27 (2) to certify appropriations from the treasury are

1 within the amount estimated to be available in a fund of the
2 treasury affected by the appropriation.

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

5 (c) The fund consists of:

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

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

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

15 (4) investment earnings and interest earned on amounts
16 credited to the fund; and

17 (5) money transferred to the fund under a bond
18 enhancement agreement from another fund or account to which money
19 from the fund was transferred under a bond enhancement agreement,
20 as authorized by Section 15.435.

21 Sec. 15.433. MANAGEMENT AND INVESTMENT OF FUND. (a) The
22 trust company shall hold and invest the fund, and any accounts
23 established in the fund, for and in the name of the board, taking
24 into account the purposes for which money in the fund may be used.
25 The fund may be co-invested with the state treasury pool.

26 (b) The overall objective for the investment of the fund is
27 to maintain sufficient liquidity to meet the needs of the fund while

1 striving to preserve the purchasing power of the fund.

2 (c) The trust company has any power necessary to accomplish
3 the purposes of managing and investing the assets of the fund. In
4 managing the assets of the fund, through procedures and subject to
5 restrictions the trust company considers appropriate, the trust
6 company may acquire, exchange, sell, supervise, manage, or retain
7 any kind of investment that a prudent investor, exercising
8 reasonable care, skill, and caution, would acquire or retain in
9 light of the purposes, terms, distribution requirements, and other
10 circumstances of the fund then prevailing, taking into
11 consideration the investment of all the assets of the fund rather
12 than a single investment.

13 (d) The trust company may charge fees to cover its costs
14 incurred in managing and investing the fund. The fees must be
15 consistent with the fees the trust company charges other state and
16 local governmental entities for which it provides investment
17 management services. The trust company may recover fees it charges
18 under this subsection only from the earnings of the fund.

19 (e) The trust company annually shall provide a written
20 report to the board and to the advisory committee with respect to
21 the investment of the fund. The trust company shall contract with a
22 certified public accountant to conduct an independent audit of the
23 fund annually and shall present the results of each annual audit to
24 the board and to the advisory committee. This subsection does not
25 affect the state auditor's authority to conduct an audit of the fund
26 under Chapter 321, Government Code.

27 (f) The trust company shall adopt a written investment

1 policy that is appropriate for the fund. The trust company shall
2 present the investment policy to the investment advisory board
3 established under Section 404.028, Government Code. The investment
4 advisory board shall submit to the trust company recommendations
5 regarding the policy.

6 (g) The board annually shall provide to the trust company a
7 forecast of the cash flows into and out of the fund. The board shall
8 provide updates to the forecasts as appropriate to ensure that the
9 trust company is able to achieve the objective specified by
10 Subsection (b).

11 (h) The trust company shall disburse money from the fund as
12 directed by the board. The board shall direct disbursements from
13 the fund on a semiannual schedule specified by the board and not
14 more frequently than twice in any state fiscal year.

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

17 (j) The trust company must publicly post required
18 disclosure of political contributions, placement agents, and fees
19 for the fund on its website in a timely fashion.

20 Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
21 OR ACCOUNTS. (a) At the direction of the board, the trust company
22 shall make disbursements from the fund to another fund or account
23 pursuant to a bond enhancement agreement authorized by Section
24 15.435 in the amounts the board determines are needed for debt
25 service payments on or security provisions of the board's general
26 obligation bonds or revenue bonds, after considering all other
27 sources available for those purposes in the respective fund or

1 account.

2 (b) Of the money disbursed from the fund during the
3 five-year period between the adoption of a state water plan and the
4 adoption of a new plan, the board shall undertake to apply not less
5 than:

6 (1) 10 percent to support projects included in the
7 state water plan that are designed to serve rural areas; and

8 (2) 20 percent to support projects included in the
9 state water plan that are for water conservation or reuse.

10 (c) The board shall undertake to use money from the fund to
11 provide financing to projects that prioritize using historically
12 underutilized businesses in compliance with statewide annual goals
13 adopted under Chapter 2161, Government Code. Projects that receive
14 financing may satisfy the statewide annual goals by contracting
15 directly or indirectly through subcontracts with historically
16 underutilized businesses.

17 Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond
18 enhancement agreement entered into under this section is an
19 agreement for professional services. A bond enhancement agreement
20 must contain terms that are consistent with Section 15.433(h), and
21 the agreement, including the period covered by the agreement and
22 all other terms and conditions of the agreement, must be approved by
23 the board. An obligation to disburse money from the fund in
24 accordance with a bond enhancement agreement is a special
25 obligation of the board payable solely from designated income and
26 receipts of the fund or an account in the fund established by the
27 board, as determined by the board. An obligation to disburse money

1 from the fund in accordance with a bond enhancement agreement does
2 not constitute indebtedness of the state.

3 (b) To facilitate the use of the fund for the purposes of
4 this subchapter, the board may direct the trust company to enter
5 into bond enhancement agreements to provide a source of revenue or
6 security for the payment of the principal of and interest on general
7 obligation bonds, including bonds issued under Section 49-d-9 or
8 49-d-11, Article III, Texas Constitution, or revenue bonds issued
9 by the board to finance or refinance projects included in the state
10 water plan if the proceeds of the sale of the bonds have been or will
11 be deposited to the credit of:

12 (1) the state water implementation revenue fund for
13 Texas;

14 (2) the water infrastructure fund;

15 (3) the rural water assistance fund;

16 (4) the Texas Water Development Fund II state
17 participation account; or

18 (5) the agricultural water conservation fund.

19 (c) If the trust company enters into a bond enhancement
20 agreement under Subsection (b), the board may direct the trust
21 company to make disbursements from the fund to another fund or
22 account for the support of bonds the proceeds of which are used to
23 provide financial assistance in the form of:

24 (1) a loan bearing an interest rate of not less than 50
25 percent of the then-current market rate of interest available to
26 the board;

27 (2) a loan to finance a facility under repayment terms

1 similar to the terms of debt customarily issued by the entity
2 requesting assistance but not to exceed the lesser of:

3 (A) the expected useful life of the facility; or

4 (B) 30 years;

5 (3) a deferral of loan repayment, including deferral
6 of the repayment of:

7 (A) principal and interest; or

8 (B) accrued interest;

9 (4) incremental repurchase terms for an acquired
10 facility, including terms for no initial repurchase payment
11 followed by progressively increasing incremental levels of
12 interest payment, repurchase of principal and interest, and
13 ultimate repurchase of the entire state interest in the facility
14 using simple interest calculations; or

15 (5) a combination of the methods of financing
16 described by Subdivisions (1)-(4).

17 (d) The board may direct the trust company to enter into
18 bond enhancement agreements with respect to bonds issued by the
19 board before September 1, 2013, only if:

20 (1) those bonds otherwise satisfy the requirements of
21 Subsections (b) and (c);

22 (2) the proceeds of those bonds were or are required to
23 be used only for the implementation of water projects recommended
24 through the state and regional water planning processes under
25 Sections 16.051 and 16.053; and

26 (3) general revenue of the state was appropriated
27 before September 1, 2013, for the payment of debt service on those

1 bonds.

2 (e) The board may direct the trust company to enter into
3 bond enhancement agreements with respect to refunding bonds issued
4 by the board to refund bonds issued by the board the proceeds of
5 which have been or are to be used for projects included in the state
6 water plan and which otherwise satisfied the requirements of
7 Subsections (b) and (c).

8 (f) The board may not direct the trust company to enter into
9 a bond enhancement agreement with respect to bonds issued by the
10 board the proceeds of which have been or are to be used to make
11 grants.

12 (g) The board may not direct the trust company to enter into
13 a bond enhancement agreement with respect to bonds issued by the
14 board the proceeds of which may be used to provide financial
15 assistance to an applicant if at the time of the request the
16 applicant has failed to:

17 (1) submit or implement a water conservation plan in
18 accordance with Section 11.1271; or

19 (2) satisfactorily complete a request by the executive
20 administrator or a regional water planning group for information
21 relevant to the project for which the financial assistance is
22 sought, including a water infrastructure financing survey under
23 Section 16.053(q).

24 (h) The board may not direct the trust company to enter into
25 a bond enhancement agreement with respect to bonds issued by the
26 board the proceeds of which may be used to provide financial
27 assistance to an applicant unless at the time of the request the

1 applicant is in compliance with any applicable requirements of:

2 (1) federal law relating to contracting with
3 disadvantaged business enterprises; and

4 (2) state law relating to contracting with
5 historically underutilized businesses.

6 (i) The board may not approve a bond enhancement agreement
7 with respect to bonds issued by the board unless the agreement
8 contains a provision to the effect that if the trust company makes a
9 disbursement under the bond enhancement agreement from the fund to
10 the credit of another fund or account as provided by Section
11 15.434(a), the board shall direct the comptroller to transfer an
12 amount not to exceed that amount from the fund or account receiving
13 the payment back to the fund if:

14 (1) money is available in the surplus balance in the
15 fund or account for that purpose; and

16 (2) the money transferred back to the fund will not
17 cause general obligation bonds that are payable from the fund or
18 account receiving the payment to no longer be self-supporting for
19 purposes of Section 49-j(b), Article III, Texas Constitution.

20 (j) For purposes of Subsection (i)(1), the surplus balance
21 of a fund or account that receives a disbursement from the fund
22 under a bond enhancement agreement is the amount of money on deposit
23 in the fund or account, as determined by the board, that is
24 attributable to the general obligation bonds or revenue bonds that
25 are the subject of the bond enhancement agreement, including money
26 received from the sale or other disposition of the board's rights to
27 receive repayment of financial assistance, money received from the

1 sale, transfer, or lease of an acquired facility, money received
2 from the sale of water associated with an acquired facility, and
3 related investment earnings, that exceeds the amount required to
4 pay debt service on the bonds and any other amounts specified in the
5 resolution or other proceedings authorizing the bonds and any
6 related obligations, as those payments are due and owing.

7 (k) The board shall submit each bond enhancement agreement
8 and the record relating to the agreement to the attorney general for
9 examination as to the validity of the agreement. If the attorney
10 general finds that the agreement has been made in accordance with
11 the constitution and other laws of this state, the attorney general
12 shall approve the agreement and the comptroller shall register the
13 agreement.

14 (l) After a bond enhancement agreement has been approved and
15 registered as provided by Subsection (k), the agreement is valid
16 and is incontestable for any cause.

17 Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER
18 PLANNING GROUPS. (a) Each regional water planning group shall
19 prioritize projects in its respective regional water planning area
20 for the purposes of Section 15.435. At a minimum, a regional water
21 planning group must consider the following criteria in prioritizing
22 each project:

23 (1) the decade in which the project will be needed;

24 (2) the feasibility of the project, including the
25 availability of water rights for purposes of the project and the
26 hydrological and scientific practicability of the project;

27 (3) the viability of the project, including whether

1 the project is a comprehensive solution with a measurable outcome;

2 (4) the sustainability of the project, taking into
3 consideration the life of the project; and

4 (5) the cost-effectiveness of the project, taking into
5 consideration the expected unit cost of the water to be supplied by
6 the project.

7 (b) In prioritizing projects, each regional water planning
8 group shall include projects that meet long-term needs as well as
9 projects that meet short-term needs.

10 (c) The board shall create a stakeholders committee
11 composed of the presiding officer or a person designated by the
12 presiding officer of each regional water planning group to
13 establish uniform standards to be used by the regional water
14 planning groups in prioritizing projects under this section.
15 Uniform standards established under this subsection must be
16 approved by the board. The board shall consult the stakeholders
17 committee from time to time regarding regional prioritization of
18 projects.

19 (d) Each regional water planning group shall submit to the
20 board the prioritization developed by the group under this section
21 together with the group's respective regional water plan developed
22 and submitted under Section 16.053.

23 Sec. 15.437. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
24 board shall prioritize projects included in the state water plan
25 for the purpose of providing financial assistance under this
26 subchapter.

27 (b) The board shall establish a point system for

1 prioritizing projects for which financial assistance is sought from
2 the board. The system must include a standard for the board to
3 apply in determining whether a project qualifies for financial
4 assistance at the time the application for financial assistance is
5 filed with the board.

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

9 (1) serve a large population;

10 (2) provide assistance to a diverse urban and rural
11 population;

12 (3) provide regionalization; or

13 (4) meet a high percentage of the water supply needs of
14 the water users to be served by the project.

15 (d) In addition to the criteria provided by Subsection (c),
16 the board must also consider at least the following criteria in
17 prioritizing projects:

18 (1) the local contribution to be made to finance the
19 project, including the up-front capital to be provided by the
20 applicant;

21 (2) the financial capacity of the applicant to repay
22 the financial assistance provided;

23 (3) the ability of the board and the applicant to
24 timely leverage state financing with local and federal funding;

25 (4) whether there is an emergency need for the
26 project, taking into consideration whether:

27 (A) the applicant is included at the time of the

1 application on the list maintained by the commission of local
2 public water systems that have a water supply that will last less
3 than 180 days without additional rainfall; and

4 (B) federal funding for which the project is
5 eligible has been used or sought;

6 (5) if the applicant is applying for financial
7 assistance for the project under Subchapter Q, whether the
8 applicant is ready to proceed with the project at the time of the
9 application, including whether:

10 (A) all preliminary planning and design work
11 associated with the project has been completed;

12 (B) the applicant has acquired the water rights
13 associated with the project;

14 (C) the applicant has secured funding for the
15 project from other sources; and

16 (D) the applicant is able to begin implementing
17 or constructing the project;

18 (6) the demonstrated or projected effect of the
19 project on water conservation, including preventing the loss of
20 water, taking into consideration, if applicable, whether the
21 applicant has filed a water audit with the board under Section
22 16.0121 that demonstrates that the applicant is accountable with
23 regard to reducing water loss and increasing efficiency in the
24 distribution of water; and

25 (7) the priority given the project by the applicable
26 regional water planning group under Section 15.436.

27 Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water

1 Implementation Fund for Texas Advisory Committee is composed of the
2 following seven members:

3 (1) the comptroller, or a person designated by the
4 comptroller;

5 (2) three members of the senate appointed by the
6 lieutenant governor, including:

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

9 (B) a member of the committee of the senate
10 having primary jurisdiction over natural resources; and

11 (3) three members of the house of representatives
12 appointed by the speaker of the house of representatives,
13 including:

14 (A) a member of the committee of the house of
15 representatives having primary jurisdiction over appropriations;
16 and

17 (B) a member of the committee of the house of
18 representatives having primary jurisdiction over natural
19 resources.

20 (b) The following persons shall serve as staff support for
21 the advisory committee:

22 (1) the deputy executive administrator of the board
23 who is responsible for water science and conservation or a person
24 who holds an equivalent position at the agency, or a person
25 designated by that person;

26 (2) the deputy executive administrator of the board
27 who is responsible for water resources planning and information or

1 a person who holds an equivalent position at the agency, or a person
2 designated by that person; and

3 (3) the chief financial officer of the board, or a
4 person who holds an equivalent position at the agency.

5 (c) An appointed member of the advisory committee serves at
6 the will of the person who appointed the member.

7 (d) The lieutenant governor shall appoint a co-presiding
8 officer of the advisory committee from among the members appointed
9 by the lieutenant governor, and the speaker of the house of
10 representatives shall appoint a co-presiding officer of the
11 committee from among the members appointed by the speaker.

12 (e) The advisory committee may hold public hearings, formal
13 meetings, or work sessions. Either co-presiding officer of the
14 advisory committee may call a public hearing, formal meeting, or
15 work session of the advisory committee at any time. The advisory
16 committee may not take formal action at a public hearing, formal
17 meeting, or work session unless a quorum of the committee is
18 present.

19 (f) Except as otherwise provided by this subsection, a
20 member of the advisory committee is not entitled to receive
21 compensation for service on the committee or reimbursement for
22 expenses incurred in the performance of official duties as a member
23 of the committee. Service on the advisory committee by a member of
24 the senate or house of representatives is considered legislative
25 service for which the member is entitled to reimbursement and other
26 benefits in the same manner and to the same extent as for other
27 legislative service.

1 (g) The advisory committee shall submit comments and
2 recommendations to the board regarding the use of money in the fund
3 for use by the board in adopting rules under Section 15.439. The
4 submission must include:

5 (1) comments and recommendations on rulemaking
6 related to the prioritization of projects in regional water plans
7 and the state water plan in accordance with Sections 15.436 and
8 15.437;

9 (2) comments and recommendations on rulemaking
10 related to establishing standards for determining whether projects
11 meet the criteria provided by Section 15.434(b);

12 (3) an evaluation of the available programs for
13 providing financing for projects included in the state water plan
14 and guidelines for implementing those programs, including
15 guidelines for providing financing for projects included in the
16 state water plan that are authorized under Subchapter Q or R of this
17 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17;

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

20 (5) an evaluation of the use of funds by the board to
21 provide support for financial assistance for water projects,
22 including support for the purposes described by Section 15.435(c);

23 (6) an evaluation of whether premium financing
24 programs should be established within the funds described by
25 Section 15.435 to serve the purposes of this subchapter, especially
26 in connection with projects described by Section 15.434(b);

27 (7) an evaluation of methods for encouraging

1 participation in the procurement process by companies domiciled in
2 this state;

3 (8) an evaluation of the overall operation, function,
4 and structure of the fund; and

5 (9) an evaluation of the Texas Water Development Fund
6 II economically distressed areas program account, and whether
7 funding should be provided to finance projects included in the
8 state water plan as authorized under Subchapter K, Chapter 17.

9 (g-1) The advisory committee shall make a recommendation to
10 the board to set aside a dollar amount in the fund to provide
11 financing under Subsection (g)(9) if:

12 (1) the investment income of the fund, including
13 earnings and interest, exceeds an amount equal to the rate of
14 inflation plus five percent (hurdle rate) in a state fiscal year;
15 and

16 (2) the advisory committee finds it appropriate to use
17 for the purpose provided by Subsection (g)(9) an amount of money in
18 the fund equal to not more than one-half of the portion of that
19 income plus capital appreciation (total return), where both the
20 total return and hurdle rate are calculated on a 12 calendar quarter
21 rolling average basis.

22 (g-2) Notwithstanding the other provisions of this
23 subchapter, if the board accepts the recommendation of the advisory
24 committee under Subsection (g-1), the board may direct the trust
25 company to use an amount of money not to exceed the amount provided
26 by Subsection (g-1)(2) for the purposes of bond enhancement
27 agreements to provide a source of revenue or security for the

1 payment of the principal of and interest on general obligation
2 bonds or revenue bonds issued by the board to finance or refinance
3 projects included in the state water plan the proceeds of the sale
4 of which have been or will be deposited to the credit of the
5 economically distressed program account. The limitation provided
6 by Section 15.435(f) does not apply to a bond enhancement agreement
7 authorized under this subsection.

8 (h) The advisory committee shall review the overall
9 operation, function, and structure of the fund at least
10 semiannually and may provide comments and recommendations to the
11 board on any matter.

12 (i) The advisory committee shall adopt rules, procedures,
13 and policies as needed to administer this section and implement its
14 responsibilities, including rules to:

15 (1) ensure compliance with statewide annual goals
16 relating to historically underutilized businesses; and

17 (2) require that the advisory committee report to the
18 executive director at least annually regarding the participation
19 level of historically underutilized businesses in projects in the
20 state water plan that receive funding related to a bond enhancement
21 agreement under this subchapter.

22 (i-1) If the level of participation by historically
23 underutilized businesses in projects in the state water plan that
24 receive funding related to a bond enhancement agreement under this
25 subchapter does not meet statewide annual goals adopted under
26 Chapter 2161, Government Code, the advisory committee shall make
27 recommendations to the board to improve the participation level.

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

3 (k) The advisory committee is subject to Chapter 325,
4 Government Code (Texas Sunset Act). Unless continued in existence
5 as provided by that chapter, the advisory committee is abolished
6 and this section expires September 1, 2023.

7 (l) The advisory committee shall make recommendations to
8 the board regarding information to be posted on the board's
9 Internet website under Section 15.440(b).

10 Sec. 15.439. RULES. (a) The board shall adopt rules
11 providing for the use of money in the fund that are consistent with
12 this subchapter, including rules:

13 (1) establishing standards for determining whether
14 projects meet the criteria provided by Section 15.434(b); and

15 (2) specifying the manner for prioritizing projects
16 for purposes of Section 15.437.

17 (b) The board shall give full consideration to the
18 recommendations of the advisory committee before adopting rules
19 under this subchapter.

20 (c) Rules adopted under Subsection (a)(2) must provide for
21 giving a higher priority to projects that will:

22 (1) comply with rules relating to historically
23 underutilized businesses; and

24 (2) create significant opportunities for historically
25 underutilized businesses.

26 Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
27 Not later than December 1 of each even-numbered year, the board

1 shall provide a report to the governor, lieutenant governor,
2 speaker of the house of representatives, and members of the
3 legislature regarding the use of the fund, including the use of the
4 fund to support projects that are designed to serve rural areas or
5 that are for water conservation or reuse as required by Section
6 15.434(b).

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

10 (1) the progress made in developing needed water
11 supply statewide and for the benefit of each regional water
12 planning area;

13 (2) for each regional water planning area, a
14 description of each project funded through bonds supported by a
15 bond enhancement agreement entered into under Section 15.435,
16 including:

17 (A) the amount of bonds issued and the terms of
18 the bonds;

19 (B) a summary of the terms of the bond
20 enhancement agreement;

21 (C) the status of repayment of any loan provided
22 in connection with the project, including an assessment of the risk
23 of default based on a standard risk rating system;

24 (D) the check register for the project;

25 (E) the expected date of completion of the
26 project; and

27 (F) the current status of the project;

1 (3) a description of the investment portfolio of the
2 fund;

3 (4) the expenses incurred in investing money in the
4 fund;

5 (5) the rate of return on the investment of money in
6 the fund;

7 (6) a description of the point system for prioritizing
8 projects established as well as the points awarded for each funded
9 project by the board under Section 15.437(b);

10 (7) any nonconfidential application information
11 submitted on approved projects for funding by the board;

12 (8) the administrative and operating expenses
13 incurred by the board in developing the state water plan and
14 providing financial assistance for projects included in the plan;
15 and

16 (9) any other information required by board rule.

17 SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

18 Sec. 15.471. DEFINITION. In this subchapter, "fund" means
19 the state water implementation revenue fund for Texas.

20 Sec. 15.472. FUND. (a) The state water implementation
21 revenue fund for Texas is a special fund outside the state treasury
22 to be used by the board, without further legislative appropriation,
23 for the purpose of providing financing for projects included in the
24 state water plan that are authorized under Subchapter Q or R of this
25 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17.
26 The board may establish separate accounts in the fund. The board
27 has legal title to money and investments in the fund until the money

1 is disbursed as provided by this subchapter and board rules. It is
2 the intent of the legislature that the fund remain outside the state
3 treasury in perpetuity and that the fund will never be used:

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

6 (2) to certify appropriations from the treasury are
7 within the amount estimated to be available in a fund of the
8 treasury affected by the appropriation.

9 (b) Money deposited to the credit of the fund may be used
10 only as provided by this subchapter.

11 (c) The fund consists of:

12 (1) money transferred or deposited to the credit of
13 the fund by law, including money from any source transferred or
14 deposited to the credit of the fund at the board's discretion as
15 authorized by law;

16 (2) the proceeds of any fee or tax imposed by this
17 state that by statute is dedicated for deposit to the credit of the
18 fund;

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

21 (4) investment earnings and interest earned on amounts
22 credited to the fund;

23 (5) the proceeds from the sale of bonds, including
24 revenue bonds issued by the board under this subchapter, that are
25 designated by the board for the purpose of providing money for the
26 fund; and

27 (6) money disbursed to the fund from the state water

1 implementation fund for Texas as authorized by Section 15.434.

2 Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Money
3 deposited to the credit of the fund shall be invested as determined
4 by the board. The fund may be co-invested with the state treasury
5 pool.

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

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

14 (d) The comptroller or corporate trustee, as custodian,
15 shall administer the fund in strict accordance with this subchapter
16 and the orders, resolutions, and rules of the board.

17 Sec. 15.474. USE OF FUND. (a) Except as provided by
18 Subsection (c), money in the fund may be used by the board only to
19 provide financing or refinancing, under terms specified by the
20 board, for projects included in the state water plan that are
21 authorized under Subchapter Q or R of this chapter, Subchapter E or
22 F, Chapter 16, or Subchapter J, Chapter 17, including water
23 conservation or reuse projects designed to reduce the need for this
24 state or political subdivisions of this state to develop additional
25 water resources.

26 (b) Financing or refinancing of projects described by
27 Subsection (a) may be provided by using money in the fund to:

1 (1) make loans to fund participants or to purchase
2 bonds or other obligations of fund participants bearing interest at
3 a rate or rates determined by the board, including rates below
4 prevailing market rates; or

5 (2) guarantee debt service payments on obligations of
6 fund participants, or to purchase insurance guaranteeing such
7 payments, if the board determines that the guarantee or purchase
8 will:

9 (A) improve access to the credit market;

10 (B) reduce the interest cost of the obligations;

11 or

12 (C) enhance the value of the assets of the fund.

13 (c) The board may use money in the fund:

14 (1) as a source of revenue or security for:

15 (A) the payment of the principal of and interest

16 on:

17 (i) revenue bonds issued by the board under

18 this subchapter; or

19 (ii) other bonds issued by the board if the

20 proceeds of the bonds will be deposited in the fund; or

21 (B) a bond enhancement agreement; or

22 (2) to pay the necessary and reasonable expenses of
23 paying agents, bond counsel, and financial advisory services and
24 similar costs incurred by the board in administering the fund.

25 Sec. 15.475. ISSUANCE OF REVENUE BONDS. (a) The board may
26 issue revenue bonds for the purpose of providing money for the fund.

27 (b) The board may issue revenue bonds to refund revenue

1 bonds or bonds and obligations issued or incurred in accordance
2 with other provisions of law.

3 (c) Revenue bonds issued under this subchapter are special
4 obligations of the board payable only from and secured by
5 designated income and receipts of the fund, including principal of
6 and interest paid and to be paid on fund assets or income from
7 accounts created within the fund by the board, as determined by the
8 board.

9 (d) Revenue bonds issued under this subchapter do not
10 constitute indebtedness of the state as prohibited by the
11 constitution.

12 (e) The board may require fund participants to make charges,
13 levy taxes, or otherwise provide for sufficient money to pay
14 acquired obligations.

15 (f) Revenue bonds issued under this subchapter must be
16 authorized by resolution of the board and must have the form and
17 characteristics and bear the designations as the resolution
18 provides.

19 (g) Revenue bonds issued under this subchapter may:

20 (1) bear interest at the rate or rates payable
21 annually or otherwise;

22 (2) be dated;

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

26 (4) be callable before stated maturity on the terms
27 and at the prices, be in the denominations, be in the form, either

1 coupon or registered, carry registration privileges as to principal
2 only or as to both principal and interest and as to successive
3 exchange of coupon for registered bonds or one denomination for
4 bonds of other denominations, and successive exchange of registered
5 revenue bonds for coupon revenue bonds, be executed in the manner,
6 and be payable at the place or places inside or outside the state,
7 as provided by the resolution;

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

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

13 (7) be issued on a parity with and be secured in the
14 manner as other revenue bonds authorized to be issued by this
15 subchapter or may be issued without parity and secured differently
16 than other revenue bonds.

17 (h) Section 17.955 applies to revenue bonds issued under
18 this subchapter in the same manner as that section applies to water
19 financial assistance bonds.

20 (i) All proceedings relating to the issuance of revenue
21 bonds issued under this subchapter shall be submitted to the
22 attorney general for examination. If the attorney general finds
23 that the revenue bonds have been authorized in accordance with law,
24 the attorney general shall approve the revenue bonds, and the
25 revenue bonds shall be registered by the comptroller. After the
26 approval and registration, the revenue bonds are incontestable in
27 any court or other forum for any reason and are valid and binding

1 obligations in accordance with their terms for all purposes.

2 (j) The proceeds received from the sale of revenue bonds
3 issued under this subchapter may be deposited or invested in any
4 manner and in such investments as may be specified in the resolution
5 or other proceedings authorizing those obligations. Money in the
6 fund or accounts created by this subchapter or created in the
7 resolution or other proceedings authorizing the revenue bonds may
8 be invested in any manner and in any obligations as may be specified
9 in the resolution or other proceedings.

10 Sec. 15.476. SUBCHAPTER CUMULATIVE OF OTHER LAWS. (a) This
11 subchapter is cumulative of other laws on the subject, and the board
12 may use provisions of other applicable laws in the issuance of bonds
13 and other obligations and the execution of bond enhancement
14 agreements, but this subchapter is wholly sufficient authority for
15 the issuance of bonds and other obligations, the execution of bond
16 enhancement agreements, and the performance of all other acts and
17 procedures authorized by this subchapter.

18 (b) In addition to other authority granted by this
19 subchapter, the board may exercise the authority granted to the
20 governing body of an issuer with regard to the issuance of
21 obligations under Chapter 1371, Government Code.

22 SECTION 3. Section 15.973(b), Water Code, is amended to
23 read as follows:

24 (b) The fund consists of:

- 25 (1) appropriations from the legislature;
- 26 (2) any other fees or sources of revenue that the
- 27 legislature may dedicate for deposit to the fund;

- 1 (3) repayments of loans made from the fund;
- 2 (4) interest earned on money credited to the fund;
- 3 (5) depository interest allocable to the fund;
- 4 (6) money from gifts, grants, or donations to the
- 5 fund;
- 6 (7) money from revenue bonds or other sources
- 7 designated by the board; ~~and~~
- 8 (8) proceeds from the sale of political subdivision
- 9 bonds or obligations held in the fund and not otherwise pledged to
- 10 the discharge, repayment, or redemption of revenue bonds or other
- 11 bonds, the proceeds of which were placed in the fund; and
- 12 (9) money disbursed to the fund from the state water
- 13 implementation fund for Texas as authorized by Section 15.434.

14 SECTION 4. Section 15.974, Water Code, is amended by adding
15 Subsection (b) to read as follows:

16 (b) The board shall transfer back to the state water
17 implementation fund for Texas any money disbursed to the fund as
18 described by Section 15.973(b)(9) if the requirements of Section
19 15.435 are satisfied.

20 SECTION 5. Section 15.993, Water Code, is amended to read as
21 follows:

22 Sec. 15.993. FUND. The rural water assistance fund is a
23 special fund in the state treasury. The fund consists of:

24 (1) money directly appropriated to the board for a
25 purpose of the fund;

26 (2) repayment of principal and interest from loans
27 made from the fund not otherwise needed as a source of revenue

1 pursuant to Section 17.9615(b);

2 (3) money transferred by the board from any sources
3 available;

4 (4) interest earned on the investment of money in the
5 fund and depository interest allocable to the fund;

6 (5) money transferred to the fund from the water
7 assistance fund in accordance with Section 15.011(b), including
8 proceeds from the sale of political subdivision bonds by the board
9 to the Texas Water Resources Finance Authority that are deposited
10 in the water assistance fund as provided by Section 17.0871;

11 (6) money from gifts, grants, or donations to the
12 fund;

13 (7) money disbursed to the fund from the state water
14 implementation fund for Texas as authorized by Section 15.434; and

15 (8) [~~7~~] any other fees or sources of revenue that
16 the legislature may dedicate for deposit to the fund.

17 SECTION 6. Section 15.994, Water Code, is amended by adding
18 Subsection (i) to read as follows:

19 (i) The board shall transfer back to the state water
20 implementation fund for Texas any money disbursed to the fund as
21 described by Section 15.993(7) if the requirements of Section
22 15.435 are satisfied.

23 SECTION 7. Section 17.183, Water Code, is amended to read as
24 follows:

25 Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) The
26 governing body of each political subdivision receiving financial
27 assistance from the board shall require in all contracts for the

1 construction of a project:

2 (1) that each bidder furnish a bid guarantee
3 equivalent to five percent of the bid price;

4 (2) that each contractor awarded a construction
5 contract furnish performance and payment bonds:

6 (A) the performance bond shall include without
7 limitation guarantees that work done under the contract will be
8 completed and performed according to approved plans and
9 specifications and in accordance with sound construction
10 principles and practices; and

11 (B) the performance and payment bonds shall be in
12 a penal sum of not less than 100 percent of the contract price and
13 remain in effect for one year beyond the date of approval by the
14 engineer of the political subdivision; and

15 (3) that payment be made in partial payments as the
16 work progresses;

17 (4) that each partial payment shall not exceed 95
18 percent of the amount due at the time of the payment as shown by the
19 engineer of the project, but, if the project is substantially
20 complete, a partial release of the five percent retainage may be
21 made by the political subdivision with approval of the executive
22 administrator;

23 (5) that payment of the retainage remaining due upon
24 completion of the contract shall be made only after:

25 (A) approval by the engineer for the political
26 subdivision as required under the bond proceedings;

27 (B) approval by the governing body of the

1 political subdivision by a resolution or other formal action; and

2 (C) certification by the executive administrator
3 in accordance with the rules of the board that the work to be done
4 under the contract has been completed and performed in a
5 satisfactory manner and in accordance with approved plans and
6 specifications [~~sound engineering principles and practices~~];

7 (6) that no valid approval may be granted unless the
8 work done under the contract has been completed and performed in a
9 satisfactory manner according to approved plans and
10 specifications; [~~and~~]

11 (7) that, if a political subdivision receiving
12 financial assistance under Subchapter K of this chapter, labor from
13 inside the political subdivision be used to the extent possible;
14 and

15 (8) that the contract include a requirement that iron
16 and steel products and manufactured goods used in the project be
17 produced in the United States, unless:

- 18 (A) such products or goods are not:
19 (i) available in sufficient quantities;
20 (ii) readily available; or
21 (iii) of a satisfactory quality; or

22 (B) the use of such products or goods will
23 increase the total cost of the project by more than 20 percent.

24 (b) Plans and specifications submitted to the board in
25 connection with an application for financial assistance must
26 include a seal by a licensed engineer affirming that the plans and
27 specifications are consistent with and conform to current industry

1 design and construction standards.

2 (c) For the purposes of Subsections (a)(8) and (d):

3 (1) "Component" means any article, material, or
4 supply, whether a manufactured good or raw material, that is
5 directly incorporated into a manufactured good.

6 (2) "Manufactured good" means an item produced as the
7 result of a manufacturing process.

8 (3) "Manufacturing process" means the application of a
9 process to alter the form or function of materials or elements of a
10 product in a manner that adds value and transforms the materials or
11 elements so that a new end product is produced that is functionally
12 different from the product that would result from simple assembly
13 of the materials or elements.

14 (4) "Produced in the United States" means:

15 (A) in the case of iron and steel products,
16 products for which all manufacturing processes, from initial
17 melting through application of coatings, take place in the United
18 States, except metallurgical processes that involve the refinement
19 of steel additives; and

20 (B) in the case of a manufactured good, a good for
21 which:

22 (i) all of the manufacturing process that
23 produced the manufactured good takes place in the United States;

24 and

25 (ii) more than 60 percent of the components
26 of the manufactured good, by cost, originate in the United States.

27 (d) For the purposes of Subsection (c)(4)(B)(ii), if a

1 component originates in the United States, the entire cost of that
2 component contributes to the determination of the percentage of the
3 components of the manufactured good that originate in the United
4 States.

5 (e) This section shall be applied in a manner consistent
6 with this state's obligations under any international agreement.

7 SECTION 8. Section 17.185(a), Water Code, is amended to
8 read as follows:

9 (a) The board may inspect the construction of a project at
10 any time to assure that[+]

11 [~~(1)~~] the contractor is substantially complying with
12 the approved engineering plans and specifications of the project[+]
13 ~~and~~

14 [~~(2) the contractor is constructing the project in~~
15 ~~accordance with sound engineering principles].~~

16 SECTION 9. Section 17.187, Water Code, is amended to read as
17 follows:

18 Sec. 17.187. CERTIFICATE OF APPROVAL. The executive
19 administrator may consider the following as grounds for refusal to
20 give a certificate of approval for any construction contract:

21 (1) failure to construct the project according to
22 approved plans and specifications; or

23 (2) [~~failure to construct the works in accordance with~~
24 ~~sound engineering principles, or~~

25 [~~(3)~~] failure to comply with any term of the contract.

26 SECTION 10. Section 17.276(c), Water Code, is amended to
27 read as follows:

1 (c) The board has the sole responsibility and authority for
2 selecting the political subdivisions to whom financial assistance
3 may be provided for treatment works and the amount of any such
4 assistance. [~~In consultation with and pursuant to agreement with~~
5 ~~the political subdivision, except as provided by Subsection (d) of~~
6 ~~this section, the board shall determine the location, time, design,~~
7 ~~scope, and all other aspects of the construction of a sewerage~~
8 ~~system for which financial assistance is provided.~~]

9 SECTION 11. Section 17.775(c), Water Code, is amended to
10 read as follows:

11 (c) The board has the sole responsibility and authority for
12 selecting the political subdivisions to whom financial assistance
13 may be provided and [~~7~~] the amount of any such assistance [~~7~~, ~~and in~~
14 ~~consultation with and pursuant to agreement with the political~~
15 ~~subdivision, the board shall determine the location, time, design,~~
16 ~~scope, and all other aspects of the construction to be performed].~~

17 SECTION 12. Section 17.853(c), Water Code, is amended to
18 read as follows:

19 (c) The board may use the fund only:

20 (1) to provide state matching funds for federal funds
21 provided to the state water pollution control revolving fund or to
22 any additional state revolving fund created under Subchapter J,
23 Chapter 15;

24 (2) to provide financial assistance from the proceeds
25 of taxable bond issues to water supply corporations organized under
26 Chapter 67, and other participants;

27 (3) to provide financial assistance to participants

1 for the construction of water supply projects and treatment works;

2 (4) to provide financial assistance for an interim
3 construction period to participants for projects for which the
4 board will provide long-term financing through the water
5 development fund;

6 (5) to provide financial assistance for water supply
7 and sewer service projects in economically distressed areas as
8 provided by Subchapter K, Chapter 17, to the extent the board can
9 make that assistance without adversely affecting the current or
10 future integrity of the fund or of any other financial assistance
11 program of the board; ~~and~~

12 (6) to provide funds to the water infrastructure fund
13 created under Section 15.973; and

14 (7) to provide funds to the state water implementation
15 revenue fund for Texas created under Section 15.472.

16 SECTION 13. Section 17.895, Water Code, is amended to read
17 as follows:

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

19 (1) money and assets, including bond proceeds,
20 attributable to the bonds;

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

24 (3) money appropriated by the legislature;

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

27 (5) administrative fees charged by the board under the

1 bond program;

2 (6) money disbursed to the fund from the state water
3 implementation fund for Texas as authorized by Section 15.434; and

4 (7) [~~(6)~~] any other funds, regardless of their source,
5 that the board directs be deposited to the credit of the fund.

6 SECTION 14. Section 17.899, Water Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The board shall transfer back to the state water
9 implementation fund for Texas any money disbursed to the fund as
10 described by Section 17.895(6) if the requirements of Section
11 15.435 are satisfied.

12 SECTION 15. Section 17.957, Water Code, is amended by
13 amending Subsection (b) and adding Subsection (d) to read as
14 follows:

15 (b) The state participation account is composed of:

16 (1) money and assets attributable to water financial
17 assistance bonds designated by the board as issued for projects
18 described in Section 16.131;

19 (2) money from the sale, transfer, or lease of a
20 project described in Subdivision (1) that was acquired,
21 constructed, reconstructed, developed, or enlarged with money from
22 the state participation account;

23 (3) payments received under a bond enhancement
24 agreement with respect to water financial assistance bonds
25 designated by the board as issued for projects described in Section
26 16.131;

27 (4) investment income earned on money on deposit in

1 the state participation account;

2 (5) money disbursed to the fund from the state water
3 implementation fund for Texas as authorized by Section 15.434; and

4 (6) [~~5~~] any other funds, regardless of their source,
5 that the board directs be deposited to the credit of the state
6 participation account.

7 (d) The board shall transfer back to the state water
8 implementation fund for Texas any money disbursed to the fund as
9 described by Subsection (b)(5) of this section if the requirements
10 of Section 15.435 are satisfied.

11 SECTION 16. As soon as practicable after the effective date
12 of this Act, the lieutenant governor and the speaker of the house of
13 representatives shall appoint the initial appointive members of the
14 State Water Implementation Fund for Texas Advisory Committee as
15 provided by Section 15.438, Water Code, as added by this Act.

16 SECTION 17. (a) Not later than September 1, 2014, the State
17 Water Implementation Fund for Texas Advisory Committee shall submit
18 recommendations to the Texas Water Development Board on the rules
19 to be adopted by the board under Sections 15.439(a)(1) and (2),
20 Water Code, as added by this Act.

21 (b) Not later than the later of the 90th day after the date
22 the Texas Water Development Board receives the recommendations
23 described by Subsection (a) of this section or March 1, 2015, the
24 board shall adopt rules under Section 15.439, Water Code, as added
25 by this Act.

26 SECTION 18. The Texas Water Development Board shall post
27 the information described by Section 15.440(b), Water Code, as

1 added by this Act, on the board's Internet website not later than
2 March 1, 2014.

3 SECTION 19. (a) Each regional water planning group shall
4 prioritize the projects included in the regional water plan most
5 recently adopted by the group in accordance with Section 15.436,
6 Water Code, as added by this Act, and submit the prioritization of
7 the projects to the Texas Water Development Board not later than
8 September 1, 2014.

9 (b) Section 15.436(d), Water Code, as added by this Act,
10 applies to a regional water plan beginning with the plan that is
11 required to be submitted to the Texas Water Development Board by
12 January 5, 2016.

13 SECTION 20. This Act takes effect September 1, 2013.