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H.B. No. 4

Substitute the following for H.B. No. 4:

By: Miller of Comal

C.S.H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
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) "Trust company" means the Texas Treasury
11 Safekeeping Trust Company.

12 Sec. 15.432. FUND. (a) The state water implementation fund
13 for Texas is a special fund outside the state treasury to be used by
14 the board, without further legislative appropriation, for the
15 purpose of implementing the state water plan as provided by this
16 subchapter. The board may establish separate accounts in the fund.
17 The fund and the fund's accounts are kept and held by the trust
18 company in escrow and in trust for and in the name of the board. The
19 board has legal title to money and investments in the fund until
20 money is disbursed from the fund as provided by this subchapter and
21 board rules.

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

24 (c) The fund consists of:

25 (1) money transferred or deposited to the credit of
26 the fund by law, including money from any source transferred or
27 deposited to the credit of the fund at the board's discretion as

1 authorized by law;

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

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

7 (4) investment earnings and interest earned on amounts
8 credited to the fund; and

9 (5) money transferred to the fund under a bond
10 enhancement agreement from another fund or account to which money
11 from the fund was transferred under a bond enhancement agreement,
12 as authorized by Section 15.435.

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

18 (b) The overall objective for the investment of the fund is
19 to maintain sufficient liquidity to meet the needs of the fund while
20 striving to preserve the purchasing power of the fund.

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

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

5 (d) The trust company may recover the costs incurred in
6 managing and investing the fund only from the earnings of the fund.

7 (e) The trust company annually shall report to the board and
8 to the advisory committee with respect to the investment of the
9 fund. The trust company shall contract with a certified public
10 accountant to conduct an independent audit of the fund annually and
11 shall present the results of each annual audit to the board and to
12 the advisory committee. This subsection does not affect the state
13 auditor's authority to conduct an audit of the fund under Chapter
14 321, Government Code.

15 (f) The trust company shall adopt an investment policy that
16 is appropriate for the fund. The trust company shall present the
17 investment policy to the investment advisory board established
18 under Section 404.028, Government Code. The investment advisory
19 board shall submit to the trust company recommendations regarding
20 the policy.

21 (g) The board annually shall provide to the trust company a
22 forecast of the cash flows into and out of the fund. The board shall
23 provide updates to the forecasts as appropriate to ensure that the
24 trust company is able to achieve the objective specified by
25 Subsection (b).

26 (h) The trust company shall disburse money from the fund as
27 directed by the board. The board shall direct disbursements from

1 the fund on a semiannual schedule specified by the board and not
2 more frequently than twice in any state fiscal year.

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

5 Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
6 OR ACCOUNTS. (a) At the direction of the board, the trust company
7 shall make disbursements from the fund to another fund or account
8 pursuant to a bond enhancement agreement authorized by Section
9 15.435 in the amounts the board determines are needed for debt
10 service payments on or security provisions of the board's general
11 obligation bonds or revenue bonds, after considering all other
12 sources available for those purposes in the respective fund or
13 account.

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

18 (1) 10 percent to support projects described by
19 Section 15.435 that are designed to serve rural areas; and

20 (2) 20 percent to support projects described by
21 Section 15.435 that are for water conservation or reuse.

22 Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond
23 enhancement agreement entered into under this section is an
24 agreement for professional services and the agreement, including
25 the period covered by the agreement and all other terms and
26 conditions of the agreement, must be approved by the board.

27 (b) The board may direct the trust company to enter into

1 bond enhancement agreements to provide a source of revenue or
2 security for the payment of the principal of and interest on general
3 obligation bonds or revenue bonds issued by the board to finance or
4 refinance projects included in the state water plan if the proceeds
5 of the sale of the bonds have been or will be deposited to the credit
6 of:

7 (1) the state water implementation revenue fund for
8 Texas to be used to provide financing for projects included in the
9 state water plan that are authorized under Subchapter Q or R of this
10 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17,
11 as authorized under Subchapter H of this chapter;

12 (2) the water infrastructure fund to be used to
13 provide financing for projects included in the state water plan as
14 authorized under Subchapter Q;

15 (3) the rural water assistance fund to be used to
16 provide financing for projects included in the state water plan as
17 authorized under Subchapter R;

18 (4) the Texas Water Development Fund II state
19 participation account to be used to provide financing for projects
20 included in the state water plan as authorized under Subchapter E,
21 Chapter 16; or

22 (5) the agricultural water conservation fund to be
23 used to provide financing for projects included in the state water
24 plan as authorized under Subchapter J, Chapter 17.

25 (c) The board may direct the trust company to enter into a
26 bond enhancement agreement obligating disbursements from the fund
27 to another fund or account as provided by Subsection (b) for the

1 support of:

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

5 (2) a loan to finance a facility under repayment terms
6 similar to the terms of debt customarily issued by the entity
7 requesting assistance but not to exceed the lesser of:

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

9 (B) 30 years;

10 (3) a deferral of loan repayment, including deferral
11 of the repayment of:

12 (A) principal and interest; or

13 (B) accrued interest;

14 (4) incremental repurchase terms for an acquired
15 facility, including terms for no initial repurchase payment
16 followed by progressively increasing incremental levels of
17 interest payment, repurchase of principal and interest, and
18 ultimate repurchase of the entire state interest in the facility
19 using simple interest calculations; or

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

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

25 (1) those bonds otherwise satisfy the requirements of
26 Subsections (b) and (c);

27 (2) the proceeds of those bonds were or are required to

1 be used only for the implementation of water projects recommended
2 through the state and regional water planning processes under
3 Sections 16.051 and 16.053; and

4 (3) general revenue has been appropriated for the
5 payment of debt service on those bonds.

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

12 (f) 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 have been or are to be used to make
15 grants.

16 (g) The board may not direct the trust company to enter into
17 a bond enhancement agreement with respect to bonds issued by the
18 board the proceeds of which may be used to provide financial
19 assistance to an applicant unless at the time of the request:

20 (1) the applicant has submitted and implemented a
21 water conservation plan in accordance with Section 11.1271; and

22 (2) the applicable regional water planning group has
23 complied with Subsection (h).

24 (h) Each regional water planning group shall provide the
25 information described by Section 16.053(q) to the board at the time
26 it submits its adopted regional water plan to the board.

27 (i) The board may not approve a bond enhancement agreement

1 with respect to bonds issued by the board unless the agreement
2 contains a provision to the effect that if the trust company makes a
3 disbursement under the bond enhancement agreement from the fund to
4 the credit of another fund or account as provided by Section
5 15.434(a), the board shall direct the comptroller to transfer an
6 amount not to exceed that amount from the fund or account receiving
7 the payment back to the fund if:

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

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

14 (j) For purposes of Subsection (i)(1), the surplus balance
15 of a fund or account that receives a disbursement from the fund
16 under a bond enhancement agreement is the amount of money on deposit
17 in the fund or account, as determined by the board, that is
18 attributable to the general obligation bonds or revenue bonds that
19 are the subject of the bond enhancement agreement, including money
20 received from the sale or other disposition of the board's rights to
21 receive repayment of financial assistance, money received from the
22 sale, transfer, or lease of acquired facilities, money received
23 from the sale of water associated with the acquired facilities, and
24 related investment earnings, that exceeds the amount required to
25 pay current debt service on the bonds.

26 (k) The board may submit a bond enhancement agreement and
27 the record relating to the agreement to the attorney general for

1 examination as to the validity of the agreement. If the attorney
2 general finds that the agreement has been made in accordance with
3 the constitution and other laws of this state, the attorney general
4 shall approve the agreement and the comptroller shall register the
5 agreement.

6 (1) After a bond enhancement agreement has been approved and
7 registered as provided by Subsection (k), the agreement is valid
8 and is incontestable for any cause.

9 Sec. 15.436. ADDITIONAL BONDING AUTHORITY. In addition to
10 issuing revenue bonds under Subchapter H of this chapter for the
11 purposes of this subchapter, the board may issue revenue bonds
12 under Subchapter I, Chapter 17, for those purposes.

13 Sec. 15.437. PRIORITIZATION OF PROJECTS BY REGIONAL WATER
14 PLANNING GROUPS. (a) Each regional water planning group shall
15 prioritize projects in its respective regional water planning area
16 for the purposes of Section 15.435. At a minimum, a regional water
17 planning group must consider the following criteria in prioritizing
18 each project:

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

20 (2) the feasibility of the project, including the
21 availability of water rights for purposes of the project and the
22 hydrological and scientific practicability of the project;

23 (3) the viability of the project, including whether
24 the project is a comprehensive solution with a measurable outcome;

25 (4) the sustainability of the project, taking into
26 consideration the life of the project; and

27 (5) the cost-effectiveness of the project, taking into

1 consideration the expected unit cost of the water to be supplied by
2 the project.

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

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

15 (d) Each regional water planning group shall submit the
16 prioritization developed by the group under this section together
17 with the group's respective regional water plan developed and
18 submitted under Section 16.053.

19 Sec. 15.438. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
20 board shall prioritize projects included in the state water plan
21 for the purpose of providing financial assistance under this
22 subchapter.

23 (b) The board shall establish a point system for
24 prioritizing projects for which financial assistance is sought from
25 the board. The system must include a standard for the board to
26 apply in determining whether a project qualifies for financial
27 assistance at the time the application for financial assistance is

1 filed with the board.

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

5 (1) serve a large population;

6 (2) provide assistance to a diverse urban and rural
7 population; or

8 (3) provide regionalization.

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

12 (1) the local contribution to be made to finance the
13 project, including the up-front capital to be provided by the
14 applicant;

15 (2) the financial capacity of the applicant to repay
16 the financial assistance provided;

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

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

21 (A) the applicant is included at the time of the
22 application on the list maintained by the commission of local
23 public water systems that have a water supply that will last less
24 than 180 days without additional rainfall; and

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

27 (5) if the applicant is applying for financial

1 assistance for the project under Subchapter Q, whether the
2 applicant is ready to proceed with the project at the time of the
3 application, including whether:

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

6 (B) the applicant has acquired the water rights
7 associated with the project;

8 (C) the applicant has secured funding for the
9 project from other sources; and

10 (D) the applicant is able to begin implementing
11 or constructing the project;

12 (6) the demonstrated or projected effect of the
13 project on water conservation, including preventing the loss of
14 water, taking into consideration, if applicable, whether the
15 applicant has filed a water audit with the board under Section
16 16.0121 that demonstrates that the applicant is accountable with
17 regard to reducing water loss and increasing efficiency in the
18 distribution of water; and

19 (7) the priority given the project by the applicable
20 regional water planning group under Section 15.437.

21 Sec. 15.439. ADVISORY COMMITTEE. (a) The State Water
22 Implementation Fund for Texas Advisory Committee is composed of the
23 following seven members:

24 (1) the comptroller, or a person designated by the
25 comptroller;

26 (2) three members of the senate appointed by the
27 lieutenant governor, including:

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

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

5 (3) three members of the house of representatives
6 appointed by the speaker of the house of representatives,
7 including:

8 (A) a member of the committee of the house of
9 representatives having primary jurisdiction over appropriations;
10 and

11 (B) a member of the committee of the house of
12 representatives having primary jurisdiction over natural
13 resources.

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

16 (1) the deputy executive administrator of the board
17 who is responsible for water science and conservation, or a person
18 designated by that deputy executive administrator;

19 (2) the deputy executive administrator of the board
20 who is responsible for water resources planning and information, or
21 a person designated by that deputy executive administrator; and

22 (3) the chief financial officer of the board.

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

25 (d) The lieutenant governor shall appoint a co-presiding
26 officer of the advisory committee from among the members appointed
27 by the lieutenant governor, and the speaker of the house of

1 representatives shall appoint a co-presiding officer of the
2 committee from among the members appointed by the speaker.

3 (e) The advisory committee may hold public hearings, formal
4 meetings, or work sessions. Either co-presiding officer of the
5 advisory committee may call a public hearing, formal meeting, or
6 work session of the advisory committee at any time. The advisory
7 committee may not take formal action at a public hearing, formal
8 meeting, or work session unless a quorum of the committee is
9 present.

10 (f) A member of the advisory committee is not entitled to
11 receive compensation for service on the committee or reimbursement
12 for expenses incurred in the performance of official duties as a
13 member of the committee.

14 (g) The advisory committee shall submit comments and
15 recommendations to the board regarding the use of money in the fund
16 for use by the board in adopting rules under Section 15.440. The
17 submission must include:

18 (1) comments and recommendations on rulemaking
19 related to the prioritization of projects in regional water plans
20 and the state water plan in accordance with Sections 15.437 and
21 15.438;

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

25 (3) an evaluation of the available programs for
26 providing financing for projects included in the state water plan
27 and guidelines for implementing those programs, including

1 guidelines for providing financing for projects included in the
2 state water plan that are authorized under Subchapter Q or R of this
3 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17;

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

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

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

13 (7) an evaluation of methods of awarding contracts
14 that may be more effective than competitive bidding in promoting
15 competitive procurements and encouraging participation in the
16 procurement process by companies domiciled in this state; and

17 (8) an evaluation of the overall operation, function,
18 and structure of the fund.

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

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

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

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

5 Sec. 15.440. RULES. (a) The board shall adopt rules
6 providing for the use of money in the fund that are consistent with
7 this subchapter, including rules:

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

10 (2) specifying the manner for prioritizing projects
11 for purposes of Section 15.438.

12 (b) The board shall give full consideration to the
13 recommendations of the advisory committee before adopting rules
14 under this subchapter.

15 Sec. 15.441. REPORT. Not later than December 1 of each
16 even-numbered year, the board shall provide a report to the
17 governor, lieutenant governor, speaker of the house of
18 representatives, and members of the legislature regarding the use
19 of the fund, including the use of the fund to satisfy the
20 requirements of Section 15.434(b).

21 SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

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

24 Sec. 15.472. FUND. (a) The state water implementation
25 revenue fund for Texas is a special fund outside the state treasury
26 to be used by the board, without further legislative appropriation,
27 for the purpose of providing financing for projects included in the

1 state water plan that are authorized under Subchapter Q or R of this
2 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17.
3 The board may establish separate accounts in the fund. The board
4 has legal title to money and investments in the fund until the money
5 is disbursed as provided by this subchapter and board rules.

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

8 (c) The fund consists of:

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

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

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

18 (4) investment earnings and interest earned on amounts
19 credited to the fund; and

20 (5) the proceeds from the sale of bonds, including
21 revenue bonds issued by the board under this subchapter, that are
22 designated by the board for the purpose of providing money for the
23 fund.

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

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

3 (c) At the direction of the board, the fund and any accounts
4 established in the fund may be kept and held in escrow and in trust
5 by the comptroller for and on behalf of the board and pending their
6 use for the purposes provided by this subchapter may be invested as
7 provided by an order, resolution, or rule of the board.

8 (d) The comptroller, as custodian, shall administer the
9 fund in strict accordance with this subchapter and the orders,
10 resolutions, and rules of the board.

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

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

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

26 (2) guarantee debt service payments on obligations of
27 fund participants, or to purchase insurance guaranteeing such

1 payments, if the board determines that the guarantee or purchase
2 will:

3 (A) improve access to the credit market;

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

5 or

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

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

8 (1) as a source of revenue or security for the payment
9 of the principal of and interest on revenue bonds issued by the
10 board under this subchapter or other bonds issued by the board if
11 the proceeds of the bonds will be deposited in the fund; or

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

15 Sec. 15.475. TRANSFERS TO OR FROM OTHER FUNDS OR ACCOUNTS.

16 (a) The board may direct the comptroller to transfer amounts, under
17 terms specified by the board, from the fund to the credit of:

18 (1) the water infrastructure fund to be used under
19 Subchapter Q for the purposes provided by Section 15.434 related to
20 projects included in the state water plan;

21 (2) the rural water assistance fund to be used under
22 Subchapter R for the purposes provided by Section 15.434 related to
23 projects included in the state water plan;

24 (3) the Texas Water Development Fund II state
25 participation account to be used under Subchapter E or F, Chapter
26 16, for the purposes provided by Section 15.434 related to projects
27 included in the state water plan; or

1 (4) the agricultural water conservation fund to be
2 used under Subchapter J, Chapter 17, for the purposes provided by
3 Section 15.434 related to projects included in the state water
4 plan.

5 (b) If the comptroller transfers an amount from the fund to
6 the credit of another fund or account as provided by this section,
7 the board may direct the comptroller to transfer an amount from the
8 other fund or account to the fund if money is available in the other
9 fund or account for that purpose.

10 Sec. 15.476. ISSUANCE OF REVENUE BONDS. (a) The board may
11 issue revenue bonds for the purpose of providing money for the fund.

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

15 (c) Revenue bonds issued under this subchapter are special
16 obligations of the board payable from and secured by designated
17 income and receipts of the fund, including principal of and
18 interest paid and to be paid on fund assets or income from accounts
19 created within the fund by the board, as determined by the board.

20 (d) Revenue bonds issued under this subchapter do not
21 constitute indebtedness of the state as prohibited by the
22 constitution.

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

26 (f) Revenue bonds issued under this subchapter must be
27 authorized by resolution of the board and must have the form and

1 characteristics and bear the designations as the resolution
2 provides.

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

4 (1) bear interest at the rate or rates payable
5 annually or otherwise;

6 (2) be dated;

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

10 (4) be callable before stated maturity on the terms
11 and at the prices, be in the denominations, be in the form, either
12 coupon or registered, carry registration privileges as to principal
13 only or as to both principal and interest and as to successive
14 exchange of coupon for registered bonds or one denomination for
15 bonds of other denominations, and successive exchange of registered
16 revenue bonds for coupon revenue bonds, be executed in the manner,
17 and be payable at the place or places inside or outside the state,
18 as provided by the resolution;

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

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

24 (7) be issued on a parity with and be secured in the
25 manner as other revenue bonds authorized to be issued by this
26 subchapter or may be issued without parity and secured differently
27 than other revenue bonds.

1 (h) All proceedings relating to the issuance of revenue
2 bonds issued under this subchapter shall be submitted to the
3 attorney general for examination. If the attorney general finds
4 that the revenue bonds have been authorized in accordance with law,
5 the attorney general shall approve the revenue bonds, and the
6 revenue bonds shall be registered by the comptroller. After the
7 approval and registration, the revenue bonds are incontestable in
8 any court or other forum for any reason and are valid and binding
9 obligations in accordance with their terms for all purposes.

10 (i) The proceeds received from the sale of revenue bonds
11 issued under this subchapter may be deposited or invested in any
12 manner and in the obligations as may be specified in the resolution
13 or other proceedings authorizing those obligations. Money in the
14 fund or accounts created by this subchapter or created in the
15 resolution or other proceedings authorizing the revenue bonds may
16 be invested in any manner and in any obligations as may be specified
17 in the resolution or other proceedings.

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

20 (b) The fund consists of:

- 21 (1) appropriations from the legislature;
- 22 (2) any other fees or sources of revenue that the
23 legislature may dedicate for deposit to the fund;
- 24 (3) repayments of loans made from the fund;
- 25 (4) interest earned on money credited to the fund;
- 26 (5) depository interest allocable to the fund;
- 27 (6) money from gifts, grants, or donations to the

1 fund;

2 (7) money from revenue bonds or other sources
3 designated by the board; ~~and~~

4 (8) proceeds from the sale of political subdivision
5 bonds or obligations held in the fund and not otherwise pledged to
6 the discharge, repayment, or redemption of revenue bonds or other
7 bonds, the proceeds of which were placed in the fund; and

8 (9) money disbursed to the fund from the state water
9 implementation fund for Texas as authorized by Section 15.434.

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

12 (b) The board shall transfer back to the state water
13 implementation fund for Texas any money disbursed to the fund as
14 described by Section 15.973(b)(9) if the requirements of Section
15 15.435 are satisfied.

16 SECTION 5. Section 15.993, Water Code, is amended to read as
17 follows:

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

20 (1) money directly appropriated to the board for a
21 purpose of the fund;

22 (2) repayment of principal and interest from loans
23 made from the fund not otherwise needed as a source of revenue
24 pursuant to Section 17.9615(b);

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

27 (4) interest earned on the investment of money in the

1 fund and depository interest allocable to the fund;

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

7 (6) money from gifts, grants, or donations to the
8 fund;

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

11 (8) [~~(7)~~] any other fees or sources of revenue that
12 the legislature may dedicate for deposit to the fund.

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

15 (i) The board shall transfer back to the state water
16 implementation fund for Texas any money disbursed to the fund as
17 described by Section 15.993(7) if the requirements of Section
18 15.435 are satisfied.

19 SECTION 7. Section 17.183, Water Code, is amended to read as
20 follows:

21 Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) The
22 governing body of each political subdivision receiving financial
23 assistance from the board shall require in all contracts for the
24 construction of a project:

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

27 (2) that each contractor awarded a construction

1 contract furnish performance and payment bonds:

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

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

11 (3) that payment be made in partial payments as the
12 work progresses;

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

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

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

23 (B) approval by the governing body of the
24 political subdivision by a resolution or other formal action; and

25 (C) certification by the executive administrator
26 in accordance with the rules of the board that the work to be done
27 under the contract has been completed and performed in a

1 satisfactory manner and in accordance with approved plans and
2 specifications [~~sound engineering principles and practices~~];

3 (6) that no valid approval may be granted unless the
4 work done under the contract has been completed and performed in a
5 satisfactory manner according to approved plans and
6 specifications; and

7 (7) that, if a political subdivision receiving
8 financial assistance under Subchapter K of this chapter, labor from
9 inside the political subdivision be used to the extent possible.

10 (b) Plans and specifications submitted to the board in
11 connection with an application for financial assistance must
12 include a seal by a licensed engineer affirming that the plans and
13 specifications are consistent with and conform to current industry
14 design and construction standards.

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

17 (a) The board may inspect the construction of a project at
18 any time to assure that [+

19 [~~(1)~~] the contractor is substantially complying with
20 the approved engineering plans and specifications of the project [+
21 ~~and~~

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

24 SECTION 9. Section 17.187, Water Code, is amended to read as
25 follows:

26 Sec. 17.187. CERTIFICATE OF APPROVAL. The executive
27 administrator may consider the following as grounds for refusal to

1 give a certificate of approval for any construction contract:

2 (1) failure to construct the project according to
3 approved plans and specifications; or

4 (2) [~~failure to construct the works in accordance with~~
5 ~~sound engineering principles; or~~

6 [~~3~~] failure to comply with any term of the contract.

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

9 (c) The board has the sole responsibility and authority for
10 selecting the political subdivisions to whom financial assistance
11 may be provided for treatment works and the amount of any such
12 assistance. [~~In consultation with and pursuant to agreement with~~
13 ~~the political subdivision, except as provided by Subsection (d) of~~
14 ~~this section, the board shall determine the location, time, design,~~
15 ~~scope, and all other aspects of the construction of a sewerage~~
16 ~~system for which financial assistance is provided.]~~

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

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

25 SECTION 12. Section 17.895, Water Code, is amended to read
26 as follows:

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

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

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

6 (3) money appropriated by the legislature;

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

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

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

13 (7) [~~6~~] any other funds, regardless of their source,
14 that the board directs be deposited to the credit of the fund.

15 SECTION 13. Section 17.899, Water Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) The board shall transfer back to the state water
18 implementation fund for Texas any money disbursed to the fund as
19 described by Section 17.895(6) if the requirements of Section
20 15.435 are satisfied.

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

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

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

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

5 (3) payments received under a bond enhancement
6 agreement with respect to water financial assistance bonds
7 designated by the board as issued for projects described in Section
8 16.131;

9 (4) investment income earned on money on deposit in
10 the state participation account;

11 (5) money transferred from the state water
12 implementation fund for Texas as authorized by Section 15.434; and

13 (6) [~~5~~] any other funds, regardless of their source,
14 that the board directs be deposited to the credit of the state
15 participation account.

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

20 SECTION 15. As soon as practicable after the effective date
21 of this Act, the lieutenant governor and the speaker of the house of
22 representatives shall appoint the initial appointive members of the
23 State Water Implementation Fund for Texas Advisory Committee as
24 provided by Section 15.439, Water Code, as added by this Act.

25 SECTION 16. (a) Not later than September 1, 2014, the State
26 Water Implementation Fund for Texas Advisory Committee shall submit
27 recommendations to the Texas Water Development Board on the rules

1 to be adopted by the board under Sections 15.440(a)(1) and (2),
2 Water Code, as added by this Act.

3 (b) Not later than the later of the 90th day after the date
4 the Texas Water Development Board receives the recommendations
5 described by Subsection (a) of this section or March 1, 2015, the
6 board shall adopt rules under Section 15.440, Water Code, as added
7 by this Act.

8 SECTION 17. (a) Each regional water planning group that has
9 not previously provided the information to the Texas Water
10 Development Board described by Section 16.053(q), Water Code, shall
11 provide the information not later than September 1, 2014.

12 (b) Section 15.435(h), Water Code, as added by this Act,
13 applies to a regional water plan beginning with the plan that is
14 required to be submitted to the Texas Water Development Board by
15 January 5, 2016.

16 SECTION 18. (a) Each regional water planning group shall
17 prioritize the projects included in the regional water plan most
18 recently adopted by the group in accordance with Section 15.437,
19 Water Code, as added by this Act, and submit the prioritization of
20 the projects to the Texas Water Development Board not later than
21 September 1, 2014.

22 (b) Section 15.437(d), Water Code, as added by this Act,
23 applies to a regional water plan beginning with the plan that is
24 required to be submitted to the Texas Water Development Board by
25 January 5, 2016.

26 SECTION 19. This Act takes effect September 1, 2013.