

**House Bill 4**  
Senate Amendments  
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No equivalent provision.

ARTICLE 1. ADMINISTRATION OF THE TEXAS  
WATER DEVELOPMENT BOARD

No equivalent provision.

SECTION 1.01. Sections 6.052(a) and (b), Water Code, are amended to read as follows:

(a) The board is composed of three [~~six~~] members who are appointed by the governor with the advice and consent of the senate. One member must have experience in the field of engineering, one member must have experience in the field of public or private finance, and one member must have experience in the field of law or business.

(b) The governor shall make the appointments in such a manner that the members reflect the diverse geographic regions and population groups of this state and do not have any conflicts [~~each member is from a different section of the state and has no conflict~~] of interest prohibited by state or federal law.

No equivalent provision.

SECTION 1.02. Section 6.053, Water Code, is amended by adding Subsection (d) to read as follows:

(d) A person is not eligible for appointment to the board if the person served on the board on or before January 1, 2013.

No equivalent provision.

SECTION 1.03. Section 6.054, Water Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If the executive administrator or a member has knowledge that a potential ground for removal exists, the executive administrator shall notify the chairman of the board of the

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potential ground. The chairman of the board shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal includes the chairman of the board, the executive administrator or another member of the board shall notify the member ~~[next highest ranking officer]~~ of the board with the most seniority, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(d) The governor, with the advice and consent of the senate, may remove a board member from office as provided by Section 9, Article XV, Texas Constitution.

No equivalent provision.

SECTION 1.04. Section 6.056, Water Code, is amended to read as follows:

Sec. 6.056. TERMS OF OFFICE. (a) The members of the board hold office for staggered terms of six years, with the term ~~[terms]~~ of one member ~~[two members]~~ expiring February 1 of each odd-numbered year ~~[every two years]~~. Each member holds office until a ~~[his]~~ successor is appointed and has qualified.

(b) A person appointed to the board may not serve for more than two six-year terms.

No equivalent provision.

SECTION 1.05. Section 6.059, Water Code, is amended to read as follows:

Sec. 6.059. CHAIRMAN OF THE BOARD ~~[OFFICERS]~~.

~~[(a)]~~ The governor shall designate one member as chairman of the board to serve at the will of the governor.

~~[(b) The members of the board shall elect a vice chairman every two years. The board shall fill a vacancy in the office of~~

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~~vice chairman for the remainder of the unexpired term.]~~

No equivalent provision.

SECTION 1.06. Sections 6.060(a) and (b), Water Code, are amended to read as follows:

(a) The board shall hold regular meetings and all hearings at times specified by a board order and entered in its minutes ~~[meet at least once every other month on a day and at a place within the state selected by it, subject to recesses at the discretion of the board].~~ The ~~[chairman or two]~~ board ~~[members]~~ may hold special meetings at the times and places in this state that the board decides are appropriate for the performance of its duties. The chairman of the board or the board member acting for the chairman shall give the other members reasonable notice before holding a special meeting ~~[call a special meeting at any time by giving notice to the other members].~~

(b) The chairman ~~[or in his absence the vice chairman]~~ shall preside at all meetings of the board. The chairman may designate another board member to act for the chairman in the chairman's absence.

No equivalent provision.

SECTION 1.07. Section 6.061, Water Code, is amended to read as follows:

Sec. 6.061. FULL-TIME SERVICE. Each member of the board shall serve on a full-time basis. ~~[COMPENSATION; EXPENSES. A member is entitled to receive an amount as provided by the General Appropriations Act for each day he serves in the performance of his duties, together with travel and other necessary expenses.]~~

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SECTION 1.08. Section 6.103, Water Code, is amended to read as follows:

Sec. 6.103. EXECUTIVE ADMINISTRATOR. The board shall appoint a person to be the executive administrator to serve at the will of the board. A person is not eligible for appointment as the executive administrator if the person served in that capacity on January 1, 2013.

No equivalent provision.

SECTION 1.09. (a) Not later than September 1, 2013, the governor shall appoint the initial members of the Texas Water Development Board under Section 6.052, Water Code, as amended by this Act. In appointing the initial members of the board, the governor shall appoint one person to a term expiring February 1, 2015, one to a term expiring February 1, 2017, and one to a term expiring February 1, 2019.

(b) The terms of the current members of the board expire September 1, 2013.

No equivalent provision.

SECTION 1.10. (a) Not later than October 1, 2013, the Texas Water Development Board shall appoint the executive administrator of the board under Section 6.103, Water Code, as amended by this Act.

(b) The person currently serving as the executive administrator of the board ceases to serve in that capacity on the date a new executive administrator is appointed under Subsection (a) of this section.

No equivalent provision.

ARTICLE 2. FUNDING OF WATER PROJECTS

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

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

No equivalent provision.

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SECTION 2.01. (a) The legislature recognizes the importance of providing for this state's future water supply needs. The purpose of this article is to ensure that proper funding in the form of meaningful and adequate financial assistance is available to provide an adequate water supply for the future of this state.

(b) To accomplish that purpose, this article creates the state water implementation fund for Texas. The fund is intended to serve as a water infrastructure bank in order to enhance the financing capabilities of the Texas Water Development Board under constitutionally created programs and revenue bond programs. The fund provides a source of revenue or security for those programs and provides a cash flow mechanism under which money used in board programs flows back to the fund to provide protection for the fund's corpus. Money in the fund will be available immediately to provide support for low-interest loans, longer repayment terms for loans, incremental repurchase terms for projects in which the state owns an interest, and deferral of loan payments. Money in the fund may not be used to make grants. In addition, this article creates the state water implementation revenue fund for Texas for use in managing revenue bonds issued by the board that are supported by the state water implementation fund for Texas.

SECTION 2.\_\_. Section 15.301, Water Code, is amended to read as follows:

Sec. 15.301. FUND CREATED. There is created a fund in the state treasury to be known as the storage acquisition fund which is to be funded by:

(1) direct appropriations;

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(2) ~~and by~~ transfers from the fund at the discretion of the board; and  
(3) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434. [FA3(5)]

No equivalent provision.

SECTION 2.\_\_\_\_. Section 15.302, Water Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:  
(a) The board may use the storage acquisition fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of any existing or proposed water storage or conveyance project.  
(c) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the storage acquisition fund as described by Section 15.301(3) if the requirements of Section 15.435 are satisfied. [FA3(5)]

SECTION 2. Chapter 15, Water Code, is amended by adding Subchapters G and H to read as follows:  
SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS  
Sec. 15.431. DEFINITIONS. In this subchapter:  
(1) "Advisory committee" means the State Water Implementation Fund for Texas Advisory Committee.  
(2) "Fund" means the state water implementation fund for Texas.  
(3) "Historically underutilized business" has the meaning assigned by Section 2161.001, Government Code.

SECTION 2.02. Chapter 15, Water Code, is amended by adding Subchapters G and H to read as follows:  
SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS  
Sec. 15.431. DEFINITIONS. In this subchapter:  
(1) "Advisory committee" means the State Water Implementation Fund for Texas Advisory Committee.  
(2) "Fund" means the state water implementation fund for Texas.  
(3) "Historically underutilized business" has the meaning assigned by Section 2161.001, Government Code. [FA5(1)]

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

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

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

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

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

(c) The fund consists of:

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

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

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

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

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(4) "Trust company" means the Texas Treasury Safekeeping Trust Company. [FA5(2)]

Sec. 15.432. FUND. (a) The state water implementation fund for Texas is a special fund in the state treasury outside the general revenue fund to be used by the board for the purpose of implementing the state water plan as provided by this subchapter. The board may establish separate accounts in the fund. The fund and the accounts in the fund are managed by the trust company. [FA1(1)]

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

(c) The fund consists of:

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

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

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

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

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

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

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

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

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

(e) The trust company annually shall provide a written report

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

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

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

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

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

(e) The trust company annually shall provide a written report

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to the board and to the advisory committee with respect to the investment of the fund. The trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the board and to the advisory committee. This subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321, Government Code.

(f) The trust company shall adopt a written investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code. The investment advisory board shall submit to the trust company recommendations regarding the policy.

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

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

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

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

Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) At the direction of the board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond

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to the board and to the advisory committee with respect to the investment of the fund. The trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the board and to the advisory committee. This subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321, Government Code.

(f) The trust company shall adopt a written investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code. The investment advisory board shall submit to the trust company recommendations regarding the policy.

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

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

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

Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) At the direction of the board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond

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enhancement agreement authorized by Section 15.435 in the amounts the board determines are needed for debt service payments on or security provisions of the board's general obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account.

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

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

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

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

Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond enhancement agreement entered into under this section is an agreement for professional services. A bond enhancement agreement must contain terms that are consistent with Section 15.433(h), and the agreement, including the period covered by the agreement and all other terms and conditions of the agreement, must be approved by the board.

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enhancement agreement authorized by Section 15.435 in the amounts the board determines are needed for debt service payments on or security provisions of the board's general obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account.

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

(1) 10 percent to support projects described by Section 15.435 that are for:

(A) rural political subdivisions as defined by Section 15.992;  
or

(B) agricultural water conservation; and

(2) 20 percent to support projects described by Section 15.435, including agricultural irrigation projects, that are designed for water conservation or reuse. [FA2(1)]

Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond enhancement agreement entered into under this section is an agreement for professional services. A bond enhancement agreement must contain terms that are consistent with Section 15.433(h), and the agreement, including the period covered by the agreement and all other terms and conditions of the agreement, must be approved by the board.

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An obligation to disburse money from the fund in accordance with a bond enhancement agreement is a special obligation of the board payable solely from designated income and receipts of the fund or an account in the fund established by the board, as determined by the board. An obligation to disburse money from the fund in accordance with a bond enhancement agreement does not constitute indebtedness of the state.

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

- (1) the state water implementation revenue fund for Texas;
- (2) the water infrastructure fund;
- (3) the rural water assistance fund;
- (4) the Texas Water Development Fund II state participation account; or
- (5) the agricultural water conservation fund.

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

- (1) a loan bearing an interest rate of not less than 50 percent

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An obligation to disburse money from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement is a special obligation of the board payable solely from designated income and receipts of the fund or of the account, as determined by the board. An obligation to disburse money from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement does not constitute indebtedness of the state. [FA2(2)]

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

- (1) the state water implementation revenue fund for Texas;
- (2) the storage acquisition fund; [FA3(1)]
- (2) the water infrastructure fund;
- (3) the rural water assistance fund;
- (4) the Texas Water Development Fund II state participation account; or
- (5) the agricultural water conservation fund.

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

- (1) a loan bearing an interest rate of not less than 50 percent

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of the then-current market rate of interest available to the board;

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

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

(B) 30 years;

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

(A) principal and interest; or

(B) accrued interest;

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

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

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

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

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

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

(e) The board may direct the trust company to enter into bond

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of the then-current market rate of interest available to the board;

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

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

(B) 30 years;

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

(A) principal and interest; or

(B) accrued interest;

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

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

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

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

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

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

(e) The board may direct the trust company to enter into bond

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enhancement agreements with respect to refunding bonds issued by the board to refund bonds issued by the board the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c).

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

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

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

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

(h) The board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant unless at the time of the request the applicant is in compliance with any applicable requirements of:

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

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

(i) The board may not approve a bond enhancement

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enhancement agreements with respect to refunding bonds issued by the board to refund bonds issued by the board the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c).

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

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

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

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

(h) The board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant unless at the time of the request the applicant has acknowledged its legal obligation to comply with any applicable requirements of:

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

(2) state law relating to contracting with historically underutilized businesses. [FA5(3)]

(h) The board may not approve a bond enhancement

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

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

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

(j) For purposes of Subsection (i)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by the board, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of the board's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of an acquired facility, money received from the sale of water associated with an acquired facility, and related investment earnings, that exceeds the amount required to pay debt service on the bonds and any other amounts specified in the resolution or other proceedings authorizing the bonds and any related obligations, as those payments are due and owing.

(k) The board shall submit each bond enhancement agreement and the record relating to the agreement to the

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

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

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

(i) For purposes of Subsection (h)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by the board, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of the board's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of an acquired facility, money received from the sale of water associated with an acquired facility, and related investment earnings, that exceeds the amount required to pay annual debt service on the bonds and any other amounts specified in the resolution or other proceedings authorizing the bonds and any related obligations.

(j) The board shall submit each bond enhancement agreement and the record relating to the agreement to the attorney

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

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

Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER PLANNING GROUPS. (a) Each regional water planning group shall prioritize projects in its respective regional water planning area for the purposes of

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general for examination as to the validity of the agreement. If the attorney general finds that the agreement has been made in accordance with the constitution and other laws of this state, the attorney general shall approve the agreement and the comptroller shall register the agreement. If the agreement is not submitted at the same time that the bonds to which it relates are submitted, the agreement shall be treated as a public security solely for the purposes of Section 1202.004, Government Code.

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

(l) At the direction of the board, the trust company shall make disbursements from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement in the amounts the board determines are needed for debt service payments on, or for security provisions of, general obligation bonds or revenue bonds issued by the board the proceeds of the sale of which have been deposited in another fund administered by the board, or in an account in that other fund, for use in accordance with this subchapter, after the board considers all other sources available for those purposes in that other fund or account. Money transferred under this subsection may be deposited into that other fund or into a special account established by the trust company or a corporate trustee that is a trust company or a bank that has the powers of a trust company, as determined by the board. [FA2(3)]

Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER PLANNING GROUPS. (a) Each regional water planning group shall prioritize projects in its respective regional water plan for the purposes of Section

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Section 15.435. At a minimum, a regional water planning group must consider the following criteria in prioritizing each project:

- (1) the decade in which the project will be needed;
- (2) the feasibility of the project, including the availability of water rights for purposes of the project and the hydrological and scientific practicability of the project;
- (3) the viability of the project, including whether the project is a comprehensive solution with a measurable outcome;
- (4) the sustainability of the project, taking into consideration the life of the project; and
- (5) the cost-effectiveness of the project, taking into consideration the expected unit cost of the water to be supplied by the project.

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

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

(d) Each regional water planning group shall submit to the board the prioritization developed by the group under this section together with the group's respective regional water

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15.435. At a minimum, a regional water planning group must consider the following criteria in prioritizing each project:  
[FA2(4)]

- (1) the decade in which the project will be needed;
- (2) the feasibility of the project, including the availability of water rights for purposes of the project and the hydrological and scientific practicability of the project;

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

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

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

(c) The board shall create a stakeholders committee composed of the presiding officer or a person designated by the presiding officer of each regional water planning group to establish standards to be used by the regional water planning groups in prioritizing projects under this section. The stakeholders committee may establish different standards to be used by different regional water planning groups as necessary to account for different circumstances affecting each region. Standards established under this subsection must be approved by the board. The board shall consult the stakeholders committee from time to time regarding regional prioritization of projects.

(d) Each regional water planning group shall submit to the board the prioritization developed by the group under this section together with the group's respective regional water

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plan developed and submitted under Section 16.053.

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

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

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

(1) serve a large population;

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

(3) provide regionalization; or

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

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

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

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

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

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

(A) the applicant is included at the time of the application on the list maintained by the commission of local public water

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plan developed and submitted under Section 16.053.

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

(b) The board shall establish a system for prioritizing projects for which financial assistance is sought from the board. The system must provide for giving priority to projects in the following order:

(1) projects that develop new water supplies, provide for the conservation or reuse of existing supplies, or provide for the conveyance of new water supplies to a water supply system;

(2) projects for new or expanded water treatment plants to treat newly developed water supplies; and

(3) projects that meet unidentified future water supply needs.

(c) The system established under Subsection (b) must incorporate the following prioritization criteria:

(1) the recommendation of the state water plan regarding timing of implementation of the project;

(2) the scope of the regional benefits of the project, considering the number of entities and the size of the population to be served by the project or other factors;

(3) the type of state financial assistance sought for the project;

(4) the percentage of the water supply needs of the region served by the project that will be met by the project;

(5) the status of implementation of the project;

(6) the amount of local funds already used or to be used to finance the project; and [FA4]

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systems that have a water supply that will last less than 180 days without additional rainfall; and

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

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

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

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

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

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

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

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

Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water Implementation Fund for Texas Advisory Committee is composed of the following seven members:

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

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

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

Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water Implementation Fund for Texas Advisory Committee is composed of the following seven members:

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

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

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- (A) a member of the committee of the senate having primary jurisdiction over matters relating to finance; and  
(B) a member of the committee of the senate having primary jurisdiction over natural resources; and  
(3) three members of the house of representatives appointed by the speaker of the house of representatives, including:  
(A) a member of the committee of the house of representatives having primary jurisdiction over appropriations; and  
(B) a member of the committee of the house of representatives having primary jurisdiction over natural resources.  
(b) The following persons shall serve as staff support for the advisory committee:  
(1) the deputy executive administrator of the board who is responsible for water science and conservation or a person who holds an equivalent position at the agency, or a person designated by that person;  
(2) the deputy executive administrator of the board who is responsible for water resources planning and information or a person who holds an equivalent position at the agency, or a person designated by that person; and  
(3) the chief financial officer of the board, or a person who holds an equivalent position at the agency.

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- (A) a member of the committee of the senate having primary jurisdiction over matters relating to finance; and  
(B) a member of the committee of the senate having primary jurisdiction over natural resources; and  
(3) three members of the house of representatives appointed by the speaker of the house of representatives, including:  
(A) a member of the committee of the house of representatives having primary jurisdiction over appropriations; and  
(B) a member of the committee of the house of representatives having primary jurisdiction over natural resources.  
(b) The following persons shall serve as staff support for the advisory committee:  
(1) the deputy executive administrator of the board who is responsible for water science and conservation or a person who holds an equivalent position at the agency, or a person designated by that person;  
(2) the deputy executive administrator of the board who is responsible for water resources planning and information or a person who holds an equivalent position at the agency, or a person designated by that person; and  
(3) the chief financial officer of the board, or a person who holds an equivalent position at the agency.  
(c) The advisory committee shall select a nationally recognized bond counsel and financial advisor to serve as the advisory committee's independent legal counsel for the purpose of advising the advisory committee in connection with the administration of the advisory committee's duties under this section. The board is responsible for paying the cost of retaining a bond counsel and financial advisor and may pay the cost from the fund.

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

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

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

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

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

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

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(d) An appointed member of the advisory committee serves at the will of the person who appointed the member.

(e) The lieutenant governor shall appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor, and the speaker of the house of representatives shall appoint a co-presiding officer of the committee from among the members appointed by the speaker.

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

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

(h) The advisory committee shall submit comments and recommendations to the board regarding the use of money in the fund for use by the board in adopting rules under Section 15.439 and in adopting policies and procedures under Section 15.441. The submission must include:

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

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

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

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

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

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

(7) an evaluation of methods for encouraging participation in the procurement process by companies domiciled in this state;

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

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

(g-1) The advisory committee shall make a recommendation

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

(3) an evaluation of the available programs for providing financing for projects included in the state water plan and guidelines for implementing those programs, including guidelines for providing financing for projects included in the state water plan that are authorized under Subchapter E, Q, or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17; [FA3(2)]

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

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

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

(7) an evaluation of methods for encouraging participation in the procurement process by companies domiciled in this state or that employ a significant number of residents of this state; and [FA6]

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

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to the board to set aside a dollar amount in the fund to provide financing under Subsection (g)(9) if:

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

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

(g-2) Notwithstanding the other provisions of this subchapter, if the board accepts the recommendation of the advisory committee under Subsection (g-1), the board may direct the trust company to use an amount of money not to exceed the amount provided by Subsection (g-1)(2) for the purposes of bond enhancement agreements to provide a source of revenue or security for the payment of the principal of and interest on general obligation bonds or revenue bonds issued by the board to finance or refinance projects included in the state water plan the proceeds of the sale of which have been or will be deposited to the credit of the economically distressed program account. The limitation provided by Section 15.435(f) does not apply to a bond enhancement agreement authorized under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) The advisory committee shall evaluate and may provide comments or recommendations on the feasibility of the state owning, constructing, and operating water supply projects, including reservoirs and major water supply conveyance infrastructure, through existing financial assistance programs under Subchapter E of this chapter, Subchapter E or F, Chapter 16, or other mechanisms. [FA3(3)]

(n) The executive administrator shall provide an annual report to the advisory committee on:

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

- (1) establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); and
- (2) specifying the manner for prioritizing projects for purposes of Section 15.437.

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

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

- (1) comply with rules relating to historically underutilized businesses; and
- (2) create significant opportunities for historically underutilized businesses.

Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a) Not later than December 1 of each even-numbered year, the board shall provide a report to the governor, lieutenant governor, speaker of the house of

(1) the board's compliance with statewide annual goals relating to historically underutilized businesses; and

(2) the participation level of historically underutilized businesses in projects that receive funding related to a bond enhancement agreement under this subchapter. [FA5(5)]

(o) If the aggregate level of participation by historically underutilized businesses in projects that receive funding related to a bond enhancement agreement under this subchapter does not meet statewide annual goals adopted under Chapter 2161, Government Code, the advisory committee shall make recommendations to the board to improve the participation level. [FA5(5)]

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

- (1) establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); and
- (2) specifying the manner for prioritizing projects for purposes of Section 15.437.

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

Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a) Not later than December 1 of each even-numbered year, the board shall provide a report to the governor, lieutenant governor, speaker of the house of

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representatives, and members of the legislature regarding the use of the fund, including the use of the fund to support projects that are designed to serve rural areas or that are for water conservation or reuse as required by Section 15.434(b).

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

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

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

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

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

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

(D) the check register for the project;

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

(F) the current status of the project;

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

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

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

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

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

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representatives, and members of the legislature regarding the use of the fund, including the use of the fund to support projects that are for rural political subdivisions or agricultural water conservation or that are designed for water conservation or reuse as required by Section 15.434(b).

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

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

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

(A) the expected date of completion of the project; and

(B) the current status of the project.

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(8) the administrative and operating expenses incurred by the board in developing the state water plan and providing financial assistance for projects included in the plan; and  
(9) any other information required by board rule.

SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

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

Sec. 15.472. FUND. (a) The state water implementation revenue fund for Texas is a special fund outside the state treasury to be used by the board, without further legislative appropriation, for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. The board may establish separate accounts in the fund. The board has legal title to money and investments in the fund until the money is disbursed as provided by this subchapter and board rules. It is the intent of the legislature that the fund remain outside the state treasury in perpetuity and that the fund will never be used:

(1) for a purpose other than the support of projects in the state

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Sec. 15.441. POLICIES AND PROCEDURES TO MITIGATE OR MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall adopt, and may amend from time to time at the board's discretion, policies and procedures for the purpose of mitigating or minimizing the adverse effects, if any, of federal laws and regulations relating to income taxes, arbitrage, rebates, and related matters that may restrict the board's ability to freely invest all or part of the fund or to receive and retain all the earnings from the fund.

SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

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

Sec. 15.472. FUND. (a) The state water implementation revenue fund for Texas is a special fund in the state treasury outside the general revenue fund to be used by the board only for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter E, Q, or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. The board may establish separate accounts in the fund. [FA1(2)]

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water plan; or  
(2) to certify appropriations from the treasury are within the amount estimated to be available in a fund of the treasury affected by the appropriation.

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

(c) The fund consists of:

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

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

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

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

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

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

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

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

(c) The fund consists of:

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

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

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

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

(5) the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the board for the purpose of providing money for the fund; [FA2(5)]

(6) repayments of loans made from the fund;

(7) money from the sale, transfer, or lease of a project acquired, constructed, reconstructed, developed, or enlarged with money from the fund; and

(8) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434. [FA2(6)]

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

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

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

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

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

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

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

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

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

(c) At the direction of the board, the fund and any accounts established in the fund may be managed by the comptroller or a corporate trustee that is a trust company or a bank that has the powers of a trust company for and on behalf of the board and pending their use for the purposes provided by this subchapter may be invested as provided by an order, resolution, or rule of the board. [FA1(3)]

(d) The comptroller or corporate trustee shall manage the fund in strict accordance with this subchapter and the orders, resolutions, and rules of the board. [FA1(4)]

Sec. 15.474. USE OF FUND. (a) Except as provided by Subsection (c), money in the fund may be used by the board only to provide financing or refinancing, under terms specified by the board, for projects included in the state water plan that are authorized under Subchapter E, Q, or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. [FA3(4)]

(b) Financing or refinancing of projects described by Subsection (a) may be provided by using money in the fund to make loans to eligible political subdivisions or to purchase bonds or other obligations of eligible political subdivisions bearing interest at a rate or rates determined by the board, including a rate or rates below prevailing market rates. [FA2(7)]

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purchase will:

- (A) improve access to the credit market;
- (B) reduce the interest cost of the obligations; or
- (C) enhance the value of the assets of the fund.

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

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

(A) the payment of the principal of and interest on:

(i) revenue bonds issued by the board under this subchapter;

or

(ii) other bonds issued by the board if the proceeds of the bonds will be deposited in the fund; or

(B) a bond enhancement agreement; or

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

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

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

(A) the payment of the principal of and interest on:

(i) revenue bonds issued by the board under this subchapter;

or

(ii) other bonds issued by the board if the proceeds of the bonds will be deposited in the fund; or

(B) a bond enhancement agreement; [FA2(8)]

(2) to acquire loans or other assets from another fund or account administered by the board, including political subdivision bonds sold or disposed of under Section 15.978 or 17.968; or

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

[FA2(9)]

(d) The board, or comptroller or corporate trustee managing the fund at the direction of the board as provided by Section 15.473(c), shall withdraw from the fund and forward to another person any amounts, as determined by the board, for timely payment of:

(1) the principal of and interest on bonds described by Subsection (c)(1)(A) of this section that mature or become due; and

(2) any cost related to bonds described by Subsection (c)(1)(A) of this section that become due, including payments under related credit agreements or bond enhancement agreements. [FA1(5)]

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

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

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

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

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

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

(g) Revenue bonds issued under this subchapter may:

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

(2) be dated;

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

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

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

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

(c) Revenue bonds issued under this subchapter are special obligations of the board payable only from and secured by designated income and receipts of the fund, ~~or of one or more accounts in the fund,~~ including principal of and interest paid and to be paid on fund assets or income from accounts created within the fund by the board, as determined by the board.  
[FA2(10)]

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

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

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

(g) Revenue bonds issued under this subchapter may:

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

(2) be dated;

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

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

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

(5) be issued in temporary or permanent form;

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

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

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

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

(j) The proceeds received from the sale of revenue bonds issued under this subchapter may be deposited or invested in any manner and in such investments as may be specified in

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

(5) be issued in temporary or permanent form;

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

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

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

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

(j) The proceeds received from the sale of revenue bonds issued under this subchapter may be deposited or invested in any manner and in such investments as may be specified in

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the resolution or other proceedings authorizing those obligations. Money in the fund or accounts created by this subchapter or created in the resolution or other proceedings authorizing the revenue bonds may be invested in any manner and in any obligations as may be specified in the resolution or other proceedings.

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

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

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

(b) The fund consists of:

- (1) appropriations from the legislature;
- (2) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;
- (3) repayments of loans made from the fund;
- (4) interest earned on money credited to the fund;
- (5) depository interest allocable to the fund;
- (6) money from gifts, grants, or donations to the fund;
- (7) money from revenue bonds or other sources designated by

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the resolution or other proceedings authorizing those obligations. Money in the fund or accounts created by this subchapter or created in the resolution or other proceedings authorizing the revenue bonds may be invested in any manner and in any obligations as may be specified in the resolution or other proceedings.

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

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

SECTION 2.03. Same as House version.

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the board; ~~and~~]

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

and

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

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

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

No equivalent provision.

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

SECTION 2.04. Same as House version.

SECTION 2.\_\_. Section 15.978(c), Water Code, is amended to read as follows:

(c) Notwithstanding other provisions of this chapter, the board may sell to the Texas Water Resources Finance Authority or to the state water implementation revenue fund for Texas any political subdivision bonds purchased with money in the water infrastructure fund and may apply the proceeds of a sale in the manner provided by this section. [FA2(11)]

SECTION 2.05. Same as House version.

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

- (1) money directly appropriated to the board for a purpose of the fund;
- (2) repayment of principal and interest from loans made from the fund not otherwise needed as a source of revenue pursuant to Section 17.9615(b);
- (3) money transferred by the board from any sources available;
- (4) interest earned on the investment of money in the fund and depository interest allocable to the fund;
- (5) money transferred to the fund from the water assistance fund in accordance with Section 15.011(b), including proceeds from the sale of political subdivision bonds by the board to the Texas Water Resources Finance Authority that are deposited in the water assistance fund as provided by Section 17.0871;
- (6) money from gifts, grants, or donations to the fund;
- (7) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and
- (8) [~~7~~] any other fees or sources of revenue that the legislature may dedicate for deposit to the fund.

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

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

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SECTION 2.06. Same as House version.

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

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

- (1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;
- (2) that each contractor awarded a construction contract furnish performance and payment bonds:
  - (A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and
  - (B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and
- (3) that payment be made in partial payments as the work progresses;
- (4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;
- (5) that payment of the retainage remaining due upon completion of the contract shall be made only after:
  - (A) approval by the engineer for the political subdivision as required under the bond proceedings;
  - (B) approval by the governing body of the political

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SECTION 2.07. Section 17.183, Water Code, is amended to read as follows:

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

- (1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;
- (2) that each contractor awarded a construction contract furnish performance and payment bonds:
  - (A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and
  - (B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; ~~and~~
- (3) that payment be made in partial payments as the work progresses;
- (4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;
- (5) that payment of the retainage remaining due upon completion of the contract shall be made only after:
  - (A) approval by the engineer for the political subdivision as required under the bond proceedings;
  - (B) approval by the governing body of the political

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subdivision by a resolution or other formal action; and  
(C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications [~~sound engineering principles and practices~~];  
(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; [~~and~~]  
(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible; and  
(8) that the contract include a requirement that iron and steel products and manufactured goods used in the project be produced in the United States, unless:  
(A) such products or goods are not:  
(i) available in sufficient quantities;  
(ii) readily available; or  
(iii) of a satisfactory quality; or  
(B) the use of such products or goods will increase the total cost of the project by more than 20 percent.  
(b) Plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards.  
(c) For the purposes of Subsections (a)(8) and (d):  
(1) "Component" means any article, material, or supply, whether a manufactured good or raw material, that is directly incorporated into a manufactured good.

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subdivision by a resolution or other formal action; and  
(C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications [~~sound engineering principles and practices~~];  
(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; and  
(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible.

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

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

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

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

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

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

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

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

(d) For the purposes of Subsection (c)(4)(B)(ii), if a component originates in the United States, the entire cost of that component contributes to the determination of the percentage of the components of the manufactured good that originate in the United States.

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

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

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

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SECTION 2.08. Same as House version.

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~~[(1)]~~ the contractor is substantially complying with the approved engineering plans and specifications of the project[; ~~and~~  
~~[(2)] the contractor is constructing the project in accordance with sound engineering principles].~~

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

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

- (1) failure to construct the project according to approved plans and specifications; or
- (2) ~~[failure to construct the works in accordance with sound engineering principles; or~~  
~~[(3)]~~ failure to comply with any term of the contract.

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

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

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SECTION 2.09. Same as House version.

SECTION 2.10. Same as House version.

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

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

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

- (c) The board may use the fund only:
- (1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J, Chapter 15;
  - (2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 67, and other participants;
  - (3) to provide financial assistance to participants for the construction of water supply projects and treatment works;
  - (4) to provide financial assistance for an interim construction period to participants for projects for which the board will provide long-term financing through the water development fund;
  - (5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K, Chapter 17, to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance

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SECTION 2.11. Same as House version.

SECTION 2.12. Section 17.853(c), Water Code, is amended to read as follows:

- (c) The board may use the fund only:
- (1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J, Chapter 15;
  - (2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 67, and other participants;
  - (3) to provide financial assistance to participants for the construction of water supply projects and treatment works;
  - (4) to provide financial assistance for an interim construction period to participants for projects for which the board will provide long-term financing through the water development fund;
  - (5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K, Chapter 17, to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance

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program of the board; ~~and~~  
(6) to provide funds to the water infrastructure fund created under Section 15.973; and  
(7) to provide funds to the state water implementation revenue fund for Texas created under Section 15.472.

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

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

- (1) money and assets, including bond proceeds, attributable to the bonds;
- (2) investment income earned on money on deposit in the fund and depository interest earned on money on deposit in the state treasury;
- (3) money appropriated by the legislature;
- (4) repayments of principal and interest on loans made under this subchapter;
- (5) administrative fees charged by the board under the bond program;
- (6) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and
- (7) ~~(6)~~ any other funds, regardless of their source, that the board directs be deposited to the credit of the fund.

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

(c) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the

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program of the board; ~~and~~  
(6) to provide funds to the water infrastructure fund created under Section 15.973; and  
(7) to provide funds to the state water implementation revenue fund for Texas. [FA1(6)]

SECTION 2.13. Same as House version.

SECTION 2.14. Same as House version.

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fund as described by Section 17.895(6) if the requirements of Section 15.435 are satisfied.

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

(b) The state participation account is composed of:

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

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

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

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

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

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

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

SECTION 2.15. Same as House version.

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

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SECTION 2.18. (a) As soon as practicable after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the initial appointive members of the State Water Implementation Fund for Texas Advisory Committee as provided by Section 15.438, Water Code, as added by this Act.

(b) Notwithstanding Subsection (a) of this section and Section 15.438, Water Code, as added by this Act, if the lieutenant governor and the speaker of the house of representatives do not appoint the initial appointive members of the State Water Implementation Fund for Texas Advisory Committee as provided by Section 15.438, Water Code, as added by this Act, by December 1, 2013;

(1) the presiding officer of the committee of the senate having primary jurisdiction over natural resources and the presiding officer of the committee of the house of representatives having primary jurisdiction over natural resources serve as initial members of the advisory committee and as the initial co-presiding officers of the advisory committee;

(2) the presiding officer of the committee of the senate having primary jurisdiction over natural resources shall appoint two members of the senate to serve as initial members of the advisory committee, including a member who meets the requirements of Section 15.438(a)(2)(A), Water Code, as added by this Act; and

(3) the presiding officer of the committee of the house of representatives having primary jurisdiction over natural resources shall appoint two members of the house of representatives to serve as initial members of the advisory committee, including a member who meets the requirements of Section 15.438(a)(3)(A), Water Code, as added by this Act.

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No equivalent provision.

SECTION 2.\_\_\_\_. Subchapter L, Chapter 17, Water Code, is amended by adding Section 17.9617 to read as follows:

Sec. 17.9617. TRANSFERS TO STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS. (a)

The board may direct the comptroller to transfer money or other assets from an account in the fund, including from the financial assistance account or from the state participation account, to the state water implementation revenue fund for Texas to provide financial assistance under this subchapter and Subchapter H, Chapter 15.

(b) A transfer of money or other assets from an account in the fund may not cause general obligation bonds that are payable from the fund or from an account in the fund to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution, as determined by the board.

(c) The board shall use the state water implementation revenue fund for Texas, or an account in that fund, as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the state water implementation revenue fund for Texas, or the account in that fund, and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds. [FA2(12)]

No equivalent provision.

SECTION 2.\_\_\_\_. Section 17.968, Water Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The board may sell or dispose of political subdivision bonds or other assets purchased with money in the fund to any

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person, including the Texas Water Resources Finance Authority, or to another fund administered by the board, including the state water implementation revenue fund for Texas, and the board, in such manner as it shall determine, may apply the proceeds of the sale of political subdivision bonds or other assets held by the board to:

- (1) pay debt service on water financial assistance bonds issued under this subchapter; or
- (2) provide financial assistance to political subdivisions for any one or more of the purposes authorized by Section 49-d-8, Article III, Texas Constitution.

(a-1) A sale or disposition of political subdivision bonds or other assets may not cause general obligation bonds that are payable from the fund or from an account in the fund to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution, as determined by the board.  
[FA2(12)]

No equivalent provision.

SECTION 2.16. Section 49.153(e), Water Code, is amended to read as follows:

- (e) Subsection (c) does not apply to:
- (1) a note issued to and approved by ~~the~~:
  - (A) the Farmers Home Administration;
  - (B) the United States Department of Agriculture;
  - (C) the Texas Water Development Board; ~~or~~
  - (D) the North American Development Bank; or
  - (E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to provide financing for water and waste disposal facilities, provided that the district that executes the note is located wholly in a county that:

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- (i) does not contain a municipality that has a population of more than 750,000; and
- (ii) is not adjacent to a county described by Subparagraph (i);  
or [FA2(13)]
- (2) a district described by Section 49.181(h).

No equivalent provision.

SECTION 2.17. Section 49.181(a), Water Code, is amended to read as follows:

(a) A district may not issue bonds unless the commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. This section does not apply to:

- (1) refunding bonds if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;
- (2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;
- (3) bonds issued to and approved by:
  - (A) the Farmers Home Administration;
  - (B) [;] the United States Department of Agriculture;
  - (C) [;] the North American Development Bank;
  - (D) [~~;~~] the Texas Water Development Board; or
  - (E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to finance such a project, provided that the district that issues the bonds is located wholly in a county that:
    - (i) does not contain a municipality that has a population of more than 750,000; and
    - (ii) is not adjacent to a county described by Subparagraph (i);

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[FA2(14)]

(4) refunding bonds issued to refund bonds described by Subdivision (3); or

(5) bonds issued by a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subsection (h)(1)(E).

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

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

No equivalent provision.

No equivalent provision.

SECTION 2.19. Same as House version.

SECTION 2.20. As soon as practicable after the effective date of this Act, the Texas Water Development Board shall create a stakeholders committee under Section 15.436(c), Water Code, as added by this Act.

SECTION 2.21. Not later than December 1, 2013, the stakeholders committee created by the Texas Water Development Board under Section 15.436(c), Water Code, as added by this Act, shall submit the standards established by

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SECTION 18. The Texas Water Development Board shall post the information described by Section 15.440(b), Water Code, as added by this Act, on the board's Internet website not later than March 1, 2014.

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

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

**No equivalent provision.**

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the committee under that subsection to the board.

SECTION 2.23. Same as House version.

SECTION 2.22. (a) Each regional water planning group shall **prepare a draft prioritization of** the projects included in the regional water plan most recently adopted by the group in accordance with Section 15.436, Water Code, as added by this Act, and submit the **draft** prioritization of the projects to the Texas Water Development Board **not later than June 1, 2014.** **The board shall provide comments to each regional water planning group on the draft prioritization submitted by the group. Each regional water planning group shall submit a final prioritization of the projects to the board not later than September 1, 2014.**

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

SECTION 2.\_\_. Sections 2.01-2.06, 2.12-2.15, and 2.18-2.23 of this article take effect on the date on which the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, adding Sections 49-d-12 and 49-d-13, Article III, Texas Constitution, creating the state water

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implementation fund for Texas and the state water implementation revenue fund for Texas takes effect. If that amendment is not approved by the voters, those sections of this article have no effect. [FA1(7)]

No equivalent provision.

ARTICLE 3. EFFECTIVE DATE

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

SECTION 3.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2013. [FA1(8)]