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By:  Huberty H.B. No. 97

A BILL TO BE ENTITLED

AN ACT

relating to the funding of projects by the Texas Water Development Board to promote utility reliability, resiliency, efficiency, conservation, and demand reduction; authorizing the issuance of revenue bonds.

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

SECTION 1.  (a) The legislature recognizes the importance of providing for the reliability and resiliency of this state's utilities, broadband providers, and power generation companies. The purpose of this Act is to ensure that proper funding in the form of meaningful and adequate financial assistance is available to enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation companies in this state, including by supporting projects to weatherize facilities, provide resilience, and reduce demand during periods of high demand.

(b)  To accomplish that purpose, this Act creates the state utilities reliability fund. The fund is intended to serve as an infrastructure funding source in order to enhance the financing capabilities of the Texas Water Development Board under a constitutionally created program and a revenue bond program. Money in the fund will be available to provide any financial assistance, including market rate, low-interest, and no-interest loans, longer repayment terms for loans, deferral of loan payments, interest rate rebates and subsidies, loan guarantees, grants, or other financial assistance that meets the needs of this state, the recipients, and the purposes of this Act, as provided by Sections 49-d-15 and 49-d-16, Article III, Texas Constitution. In addition, this Act creates the state utilities reliability revenue fund for use in managing revenue bonds issued by the Texas Water Development Board that are supported by the state utilities reliability fund. The state utilities reliability fund and the state utilities reliability revenue fund are not intended to be used to pay for new, dispatchable sources of electricity to be built by private entities.

SECTION 2.  Chapter 447, Government Code, is amended by adding Section 447.014 to read as follows:

Sec. 447.014.  ENERGY EFFICIENCY, NATURAL GAS CONSERVATION, AND WATER CONSERVATION LOAN PROGRAM. (a) Using money available from the state utilities reliability fund established under Chapter 202, Utilities Code, the comptroller and the State Energy Conservation Office jointly by rule shall establish and administer a program that issues or guarantees loans to be used for improvements that increase the energy efficiency of and promote conservation of natural gas and water by residences and businesses that are not newly constructed.

(b)  The rules adopted under this section must establish eligibility requirements for receipt of a loan issued or guaranteed under the program, including emissions reduction cost-effectiveness criteria.

(c)  The State Energy Conservation Office annually shall submit to the Public Utility Commission of Texas and the Energy Systems Laboratory of the Texas A&M Engineering Experiment Station a report that:

(1)  evaluates the effectiveness of the program; and

(2)  quantifies energy savings and emissions reductions that result from the program for consideration in the state implementation plan, as described by Section 382.0173, Health and Safety Code, for emissions reduction credits.

SECTION 3.  Title 4, Utilities Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. RELIABILITY AND RESILIENCY OF UTILITIES, BROADBAND PROVIDERS, AND POWER GENERATORS

CHAPTER 201. GENERAL PROVISIONS

Sec. 201.001.  DEFINITIONS. In this subtitle:

(1)  "Advisory committee" means the State Utilities Reliability Fund Advisory Committee.

(2)  "Board" means the Texas Water Development Board.

(3)  "Broadband provider" means any person, corporation, municipality or other political subdivision, or agency that owns or operates for compensation in this state facilities to provide broadband telecommunications capability and Internet access in this state.

(4)  "Commission" means the Public Utility Commission of Texas.

(5)  "Electric utility" has the meaning assigned by Section 31.002, except that the term includes an electric cooperative organized under Chapter 161 and a municipally owned utility.

(6)  "Executive administrator" means the executive administrator of the Texas Water Development Board.

(7)  "Facilities" means all of the property, plants, and equipment of an electric, natural gas, or water utility, a broadband provider, or a power generation company. The term includes tangible property owned, operated, leased, used, controlled, or supplied for, by, or in connection with the business of the electric, natural gas, or water utility, the broadband provider, or the power generation company in this state.

(8)  "Fund" means the state utilities reliability fund.

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

(10)  "Natural gas utility" means a person who owns or operates for compensation in this state facilities to transmit or distribute combustible hydrocarbon natural gas or synthetic natural gas for sale or resale in a manner not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. Section 717 et seq.).

(11)  "Power generation company" has the meaning assigned by Section 31.002.

(12)  "Railroad commission" means the Railroad Commission of Texas.

(13)  "Revenue fund" means the state utilities reliability revenue fund.

(14)  "State Energy Conservation Office" means a unit of the comptroller of public accounts.

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

(16)  "Water utility" means a person operating, maintaining, or controlling in this state facilities for providing potable water service or wastewater service, or both, for compensation.

CHAPTER 202. STATE UTILITIES RELIABILITY FUND

Sec. 202.001.  FUND. (a) The state utilities reliability fund is a special fund in the state treasury outside the general revenue fund to be used by the board as authorized by this chapter without further legislative appropriation. The board may establish separate accounts in the fund and may transfer funds between accounts. The board may invest, reinvest, and direct the investment of money in the fund. The fund and the fund's accounts may be 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 chapter and board rules.

(b)  Money deposited to the credit of the fund may be used only as provided by Section 202.003.

(c)  The fund consists of:

(1)  money appropriated to the fund;

(2)  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;

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

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

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

(6)  repayments of loans made from the fund; and

(7)  money transferred to the fund from another fund or account to which money from the fund was transferred.

Sec. 202.002.  MANAGEMENT AND INVESTMENT OF FUND. (a) The board or the trust company may 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 objectives for the investment of the fund are, in order of precedence:

(1)  preservation and safety of the fund principal;

(2)  liquidity; and

(3)  investment yield.

(c)  The board or the trust company, as directed by the board, 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 board or the trust company considers appropriate, the board or 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)  If the fund is managed by the trust company, 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 the trust company provides investment management services. The trust company may recover fees the trust company charges under this subsection only from the earnings of the fund.

(e)  If the fund is managed by the trust company, the trust company annually shall provide a report 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 board or trust company shall adopt a written investment policy that is appropriate for the fund. If the fund is managed by the trust company:

(1)  the trust company shall present the investment policy to the board and the investment advisory board established under Section 404.028, Government Code; and

(2)  the board and investment advisory board shall submit to the trust company recommendations regarding the policy.

(g)  If the fund is managed by the trust company, 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 assist the trust company in achieving the objectives specified by Subsection (b).

(h)  If the fund is managed by the trust company, the company shall disburse money from the fund as directed by the board. The board shall direct disbursements from the fund on a schedule specified by the board. If any applicable revenue bonds are outstanding, the board shall direct disbursements from the fund 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. 202.003.  USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) The board or the trust company at the direction of the board shall make disbursements from the fund to the revenue fund in the amounts the board determines are needed for disbursement through the financing structures developed to meet the goals of the fund, including transfer of those amounts to other board programs or funds as necessary, or for debt service payments on or security provisions of the board's revenue bonds, after considering all other sources available for those purposes.

(b)  The fund may be used only to:

(1)  enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation companies for this state by supporting projects, including projects to weatherize facilities and reduce demand, in order to provide resilience and continuous service during periods of high demand;

(2)  pay the necessary and reasonable expenses of the board in administering the fund; and

(3)  transfer funds to other board programs or funds.

(c)  Notwithstanding any other provision of this chapter, the use of the fund may be prioritized based on a statewide utility reliability and resiliency plan adopted under Section 202.010.

(d)  The board may provide financial assistance from the fund for:

(1)  a water utility project;

(2)  an electric utility project;

(3)  a natural gas utility project;

(4)  a power generation company project;

(5)  a water utility, electric utility, or natural gas utility project to reduce demand; or

(6)  a broadband provider to provide matching funds to enable the broadband provider to participate in a federal program for broadband facilities.

(e)  Financial assistance under Subsection (d) may be provided in any form as determined by the board, including a market rate, low-interest, or no-interest loan, a loan guarantee, an equity ownership in a public or private entity, a joint venture with a public or private entity, a grant, an interest rebate, or an interest subsidy.

(f)  In providing financial assistance under Subsection (d), the board may make, enter into, and enforce contracts, agreements, including management agreements, for the management of any of the board's property, leases, indentures, mortgages, deeds of trust, security agreements, pledge agreements, credit agreements, overrides or other revenue sharing mechanisms, repurchase agreements, and other instruments with any person, including any lender and any federal, state, or local governmental agency, and to take other actions as may accomplish any of its purposes.

(g)  The board may contract with and provide for the compensation of consultants and agents, including engineers, attorneys, management consultants, financial advisors, indexing agents, and other experts, as the business of the board under this chapter may require.

(h)  The fund may not be used to subsidize or finance the construction of facilities that the board determines, in the board's sole discretion, will result in new electric generation capacity.

(i)  Money in the fund may not be used for the purposes of certification under Section 403.121, Government Code.

Sec. 202.004.  PRIORITIZATION OF PROJECTS BY BOARD. (a) The board, for the purpose of providing financial assistance under this chapter, shall prioritize projects that enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation companies in this state.

(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)  harden facilities to protect against extreme weather and fuel supply disruptions;

(2)  enhance resiliency of existing facilities during periods of high demand;

(3)  enhance the availability of fuel or water to existing power generation companies and electric utilities to improve the reliability of those companies and utilities to provide continuous and adequate electric service during periods of high demand;

(4)  improve local resiliency by reducing demand through energy efficiency measures, advanced metering infrastructure deployment, and demand response technology deployment; and

(5)  provide broadband service in low-income and rural communities.

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

(1)  other funding sources secured by the applicant for the project, including any capital to be provided by the applicant;

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

(3)  the ability of the applicant to timely leverage state financing with local, federal, or private funding.

(e)  The board shall consider federal tax subsidies in prioritizing projects.

Sec. 202.005.  ADVISORY COMMITTEE. (a) The State Utilities Reliability Fund Advisory Committee is composed of the following members:

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

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

(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;

(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;

(4)  the chief executive of the Office of Public Utility Counsel, or a person designated by the chief executive of the Office of Public Utility Counsel;

(5)  the presiding officer of the commission, or a person designated by the presiding officer of the commission;

(6)  the chair of the Texas Reliability Entity board of directors, or a person designated by a public vote of the Texas Reliability Entity; and

(7)  an unaffiliated board member of the Electric Reliability Council of Texas, appointed in a public meeting of the Electric Reliability Council of Texas.

(b)  The board shall provide staff as necessary to assist the advisory committee.

(c)  An appointed member of the advisory committee serves at the will of the officer 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 shall hold public hearings, formal meetings, or work sessions in a location with audio and video capacity. The board shall broadcast over the Internet live video and audio of each public hearing, formal meeting, or work session of the advisory committee and provide access to each broadcast on the board's Internet website. Either co-presiding officer of the advisory committee may call a public hearing, formal meeting, or work session of the advisory committee after issuing a public notice not later than the seventh day before the date of the public hearing, formal meeting, or work session. The public notice must include an agenda with formal actions included. 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. The board shall provide access on the board's Internet website to the public notices, recordings of the live broadcasts, and minutes of public hearings, formal meetings, and work sessions.

(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 and in the revenue fund for use by the board in adopting rules under Section 202.006 and in adopting policies and procedures under Section 202.008. The submission must include:

(1)  comments and recommendations on rulemaking related to the prioritization of projects in accordance with Section 202.004;

(2)  comments and recommendations on rulemaking related to establishing standards for determining whether projects meet the criteria provided by Section 202.003;

(3)  an evaluation of the available programs for providing financing for projects authorized by this chapter and guidelines for implementing those programs;

(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 projects that enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation companies for this state, including support for the purposes described by Section 202.003(b);

(6)  an evaluation of methods for encouraging participation in the programs established under this chapter by companies domiciled in this state or that employ a significant number of residents of this state; and

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

(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 may adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

(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, 2035.

(l)  The advisory committee shall make recommendations to the board regarding information to be posted on the board's Internet website under Section 202.007(b).

(m)  The advisory committee shall evaluate and may provide comments or recommendations on the feasibility of the state owning, constructing, and operating water, electric, natural gas, power generation, or broadband facilities related to the purposes described by Section 202.003(b).

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

(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 under this chapter.

(o)  If the aggregate level of participation by historically underutilized businesses in projects that receive funding under this chapter 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.

Sec. 202.006.  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 202.003;

(2)  providing for public access to information on financing assistance applications and providing for consideration of public comment before financing decisions are made; and

(3)  specifying the manner for prioritizing projects for purposes of Section 202.004.

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

Sec. 202.007.  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 representatives, and members of the legislature regarding the use of the fund.

(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 enhancing critical water, electric, natural gas, and broadband infrastructure to withstand periods of high demand; and

(2)  a description of each project funded through the fund, including the expected date of completion of the project.

Sec. 202.008.  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.

Sec. 202.009.  COOPERATION WITH OTHER STATE AGENCIES. (a) The commission, railroad commission, the State Energy Conservation Office, and other state agencies shall provide resources to the board that the board determines are necessary to carry out the board's duties and responsibilities under this chapter.

(b)  The board may require the commission to review and recommend for approval electric utility, power generation company, and broadband provider projects for board assistance under this chapter and inspect electric utility, power generation company, and broadband provider projects after board financial assistance.

(c)  The board may require the railroad commission to review and recommend for approval natural gas utility and power generation projects for board assistance under this chapter and inspect natural gas utility and power generation company projects after board financial assistance.

(d)  The board may require any other state agency to provide services to the board to ensure the goals of the fund and this chapter are met.

Sec. 202.010.  RELIABILITY AND RESILIENCY STUDY AND PLAN. (a) The board may, at any time, develop and conduct a study of the needs, causes, and methods to address reliability and resiliency of the industries affected by this chapter and may develop a statewide reliability and resiliency plan.

(b)  The board may, at any time, use money from the fund to contract and engage outside entities to develop a study or plan considered necessary by the board.

Sec. 202.011.  CHANGES TO INDUSTRY STRUCTURE NOT IN CONFLICT WITH CHAPTER. Any reconstruction or changes to the regulatory market structures of the industries identified in this chapter are not in conflict with the purpose of this chapter.

Sec. 202.012.  PUBLIC PRIVATE PARTNERSHIPS. Money from the fund may be used to make payments under a public and private entity agreement to design, develop, finance, or construct a project described by this chapter.

Sec. 202.013.  METHODOLOGY AND STANDARDS FOR POWER GENERATION FACILITY WEATHERIZATION. (a) The commission shall develop a statistical methodology to determine the ambient conditions to which each power generation facility must be weatherized to comply with winter operations reliability standards.

(b)  A methodology or standard developed under Subsection (a) may be used only to determine whether to provide financial assistance or support to a project to weatherize a power generation facility under this subtitle.

CHAPTER 203. STATE UTILITIES RELIABILITY REVENUE FUND

Sec. 203.001.  REVENUE FUND. (a) The state utilities reliability revenue fund is a special fund in the state treasury outside the general revenue fund to be used by the board as authorized by this chapter without further legislative appropriation. The board may establish separate accounts in the revenue fund and may transfer money between accounts. The board has legal title to money and investments in the revenue fund until the money is disbursed as provided by this chapter and board rules.

(b)  Money deposited to the credit of the revenue fund may be used only as provided by Section 203.003.

(c)  The revenue fund consists of:

(1)  money appropriated to the revenue fund;

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

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

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

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

(6)  the proceeds from the sale of revenue bonds issued by the board under this chapter that are designated by the board for the purpose of providing money for the revenue fund;

(7)  repayments of loans made from the revenue fund; and

(8)  money disbursed to the revenue fund from the state utilities reliability fund as authorized by Section 202.003.

Sec. 203.002.  MANAGEMENT AND INVESTMENT OF REVENUE FUND. (a) Money deposited to the credit of the revenue fund shall be invested as determined by the board. The revenue fund may be invested with the state treasury pool.

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

(c)  At the direction of the board, the revenue fund and any accounts established in the revenue fund may be managed by the board, 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 use of the revenue fund and accounts for the purposes provided by this chapter, may be invested as provided by an order, resolution, or rule of the board.

(d)  The board, comptroller, or corporate trustee shall manage the revenue fund in strict accordance with this chapter and the orders, resolutions, and rules of the board.

Sec. 203.003.  USE OF REVENUE FUND. (a) Money in the revenue fund may be used by the board only to provide financial assistance under terms specified by the board for projects that enhance the reliability and resiliency of water, electric, natural gas, broadband, and power generation facilities in this state, including:

(1)  projects that enhance the ability of facilities to withstand periods of high demand;

(2)  projects that reduce demand during periods of high demand; and

(3)  projects to weatherize facilities.

(b)  Financial assistance for projects under Subsection (a) may be provided in any form determined by the board that meets the needs and goals of this state and the applicants, including a market rate, low-interest, or no-interest loan, a loan guarantee, an equity ownership in a public or private entity, a joint venture with a public or private entity, a grant, an interest rebate, or an interest subsidy.

(c)  In providing financial assistance under Subsection (a), the board may:

(1)  make, enter into, and enforce contracts and agreements, including management agreements, for the management of any of the board's property, leases, indentures, mortgages, deeds of trust, security agreements, pledge agreements, credit agreements, overrides or other revenue sharing mechanisms, repurchase agreements, and other instruments with any person, including any lender and any federal, state, or local governmental agency;

(2)  contract with and provide for the compensation of consultants and agents, including engineers, attorneys, management consultants, financial advisors, indexing agents, and other experts, as the business of the board may require; and

(3)  take other actions to accomplish any of the board's purposes.

(d)  The board may use money in the revenue fund:

(1)  as a source of revenue or security for the payment of the principal of and interest on revenue bonds issued by the board under this chapter;

(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 revenue fund; or

(3)  to transfer money to the fund as necessary.

(e)  The board, comptroller, or corporate trustee managing the revenue fund at the direction of the board shall withdraw from the revenue fund and pay to a person any amounts, as determined by the board, for the timely payment of:

(1)  the principal of and interest on bonds described by Subsection (d)(1) that mature or become due; and

(2)  any cost related to bonds described by Subsection (d)(1) that become due, including payments under related credit agreements.

(f)  Money in the revenue fund may not be used for the purpose of certification under Section 403.121, Government Code.

Sec. 203.004.  ISSUANCE OF REVENUE BONDS. (a) The board may issue revenue bonds for the purpose of providing money for the revenue 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 chapter are special obligations of the board payable only from and secured by designated income and receipts of the revenue fund, or of one or more accounts in the revenue fund, including principal of and interest paid and to be paid on revenue fund assets or income from accounts created within the revenue fund by the board, as determined by the board.

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

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

(f)  Revenue bonds issued under this chapter 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 chapter 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 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 chapter or may be issued without parity and secured differently than other revenue bonds.

(h)  Section 17.955, Water Code, applies to revenue bonds issued under this chapter 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 chapter 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 chapter may be deposited or invested in any manner and in such investments as may be specified in the resolution or other proceedings authorizing those obligations. Money in the revenue fund or accounts created by this chapter 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. 203.005.  CHAPTER CUMULATIVE OF OTHER LAWS. (a) This chapter 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, but this chapter is wholly sufficient authority for the issuance of bonds and other obligations and the performance of all other acts and procedures authorized by this chapter.

(b)  In addition to other authority granted by this chapter, 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 4.  Section 15.102(b), Water Code, is amended to read as follows:

(b)  The loan fund may also be used by the board to provide:

(1)  grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; [~~and~~]

(2)  grants for:

(A)  projects for which federal grant funds are placed in the loan fund;

(B)  projects, on specific legislative appropriation for those projects; or

(C)  water conservation, desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems; and

(3)  loans or grants to water utilities, as that term is defined by Section 201.001, Utilities Code, for projects that enhance the reliability and resiliency of those water utilities by weatherizing facilities or reducing water demand through water conservation and water demand reduction efforts.

SECTION 5.  (a) The terms used in this section have the meanings assigned by Section 201.001, Utilities Code, as added by this Act.

(b)  The executive administrator of the Texas Water Development Board, in coordination with the Public Utility Commission of Texas, the Texas Commission on Environmental Quality, the Railroad Commission of Texas, the State Energy Conservation Office, and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, shall conduct a study regarding:

(1)  the need for financial assistance from the state to weatherize:

(A)  water utility facilities;

(B)  electric utility facilities;

(C)  natural gas utility facilities;

(D)  power generation companies; and

(E)  broadband provider facilities;

(2)  the need for financial assistance from the state to provide adequate capacity during periods of high demand for electric utilities and natural gas utilities, including by reducing electric and natural gas demand; and

(3)  the financing structures desirable to potential applicants for the categories listed in Subdivisions (1) and (2) of this subsection.

(c)  The costs of the study, including any external management or consulting services considered necessary, may be paid from the state utilities reliability fund.

(d)  The executive administrator shall prepare a report on the findings of the study conducted under this section and submit the report to the State Utilities Reliability Fund Advisory Committee not later than May 7, 2023.

(e)  This section expires September 1, 2023.

SECTION 6.  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 Utilities Reliability Fund Advisory Committee as provided by Section 202.005, Utilities Code, as added by this Act.

SECTION 7.  (a) Not later than June 1, 2023, the State Utilities Reliability Fund Advisory Committee shall submit recommendations to the Texas Water Development Board on the rules to be adopted by the board under Section 202.006(a), Utilities Code, as added by this Act.

(b)  Not later than December 1, 2023, the board shall propose rules under Section 202.006, Utilities Code, as added by this Act.

SECTION 8.  The Texas Water Development Board shall post the information described by Section 202.007(b), Utilities Code, as added by this Act, on the board's Internet website not later than March 1, 2023.

SECTION 9.  (a) Except as provided by Subsection (b) of this section:

(1)  this Act takes effect on the date on which the constitutional amendment proposed by the 87th Legislature, 3rd Called Session, 2021, creating the state utilities reliability fund and the state utilities reliability revenue fund to provide financial support for projects that enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation companies in this state takes effect; or

(2)  if the amendment described by Subdivision (1) of this subsection is not approved by the voters, this Act has no effect.

(b)  Regardless of whether the constitutional amendment described by Subsection (a) of this section is approved by the voters, Section 5 of this Act takes effect:

(1)  immediately, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; or

(2)  on the 91st day after the last day of the legislative session, if this Act does not receive the vote necessary for immediate effect.