

By: Huberty

H.B. No. 97

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the funding of projects by the Texas Water Development  
3 Board to promote utility reliability, resiliency, efficiency,  
4 conservation, and demand reduction; authorizing the issuance of  
5 revenue bonds.

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

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

17 (b) To accomplish that purpose, this Act creates the state  
18 utilities reliability fund. The fund is intended to serve as an  
19 infrastructure funding source in order to enhance the financing  
20 capabilities of the Texas Water Development Board under a  
21 constitutionally created program and a revenue bond program. Money  
22 in the fund will be available to provide any financial assistance,  
23 including market rate, low-interest, and no-interest loans, longer  
24 repayment terms for loans, deferral of loan payments, interest rate

1 rebates and subsidies, loan guarantees, grants, or other financial  
2 assistance that meets the needs of this state, the recipients, and  
3 the purposes of this Act, as provided by Sections 49-d-15 and  
4 49-d-16, Article III, Texas Constitution. In addition, this Act  
5 creates the state utilities reliability revenue fund for use in  
6 managing revenue bonds issued by the Texas Water Development Board  
7 that are supported by the state utilities reliability fund. The  
8 state utilities reliability fund and the state utilities  
9 reliability revenue fund are not intended to be used to pay for new,  
10 dispatchable sources of electricity to be built by private  
11 entities.

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

14 Sec. 447.014. ENERGY EFFICIENCY, NATURAL GAS CONSERVATION,  
15 AND WATER CONSERVATION LOAN PROGRAM. (a) Using money available  
16 from the state utilities reliability fund established under Chapter  
17 202, Utilities Code, the comptroller and the State Energy  
18 Conservation Office jointly by rule shall establish and administer  
19 a program that issues or guarantees loans to be used for  
20 improvements that increase the energy efficiency of and promote  
21 conservation of natural gas and water by residences and businesses  
22 that are not newly constructed.

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

27 (c) The State Energy Conservation Office annually shall

1 submit to the Public Utility Commission of Texas and the Energy  
2 Systems Laboratory of the Texas A&M Engineering Experiment Station  
3 a report that:

- 4 (1) evaluates the effectiveness of the program; and  
5 (2) quantifies energy savings and emissions  
6 reductions that result from the program for consideration in the  
7 state implementation plan, as described by Section 382.0173, Health  
8 and Safety Code, for emissions reduction credits.

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

11 SUBTITLE C. RELIABILITY AND RESILIENCY OF UTILITIES, BROADBAND  
12 PROVIDERS, AND POWER GENERATORS  
13 CHAPTER 201. GENERAL PROVISIONS

14 Sec. 201.001. DEFINITIONS. In this subtitle:

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

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

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

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

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

1 utility.

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

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

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

12 (9) "Historically underutilized business" has the  
13 meaning assigned by Section [2161.001](#), Government Code.

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

20 (11) "Power generation company" has the meaning  
21 assigned by Section [31.002](#).

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

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

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

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

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

7           CHAPTER 202. STATE UTILITIES RELIABILITY FUND

8           Sec. 202.001. FUND. (a) The state utilities reliability  
9 fund is a special fund in the state treasury outside the general  
10 revenue fund to be used by the board as authorized by this chapter  
11 without further legislative appropriation. The board may establish  
12 separate accounts in the fund and may transfer funds between  
13 accounts. The board may invest, reinvest, and direct the  
14 investment of money in the fund. The fund and the fund's accounts  
15 may be kept and held by the trust company for and in the name of the  
16 board. The board has legal title to money and investments in the  
17 fund until money is disbursed from the fund as provided by this  
18 chapter and board rules.

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

21           (c) The fund consists of:

22                   (1) money appropriated to the fund;  
23                   (2) money transferred or deposited to the credit of  
24 the fund by law, including money from any source transferred or  
25 deposited to the credit of the fund at the board's discretion as  
26 authorized by law;

27                   (3) the proceeds of any fee or tax imposed by this

1 state that by statute is dedicated for deposit to the credit of the  
2 fund;

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

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

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

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

10 Sec. 202.002. MANAGEMENT AND INVESTMENT OF FUND. (a) The  
11 board or the trust company may hold and invest the fund, and any  
12 accounts established in the fund, for and in the name of the board,  
13 taking into account the purposes for which money in the fund may be  
14 used. The fund may be invested with the state treasury pool.

15 (b) The overall objectives for the investment of the fund  
16 are, in order of precedence:

17 (1) preservation and safety of the fund principal;

18 (2) liquidity; and

19 (3) investment yield.

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

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

5 (d) If the fund is managed by the trust company, the trust  
6 company may charge fees to cover its costs incurred in managing and  
7 investing the fund. The fees must be consistent with the fees the  
8 trust company charges other state and local governmental entities  
9 for which the trust company provides investment management  
10 services. The trust company may recover fees the trust company  
11 charges under this subsection only from the earnings of the fund.

12 (e) If the fund is managed by the trust company, the trust  
13 company annually shall provide a report to the board and to the  
14 advisory committee with respect to the investment of the fund. The  
15 trust company shall contract with a certified public accountant to  
16 conduct an independent audit of the fund annually and shall present  
17 the results of each annual audit to the board and to the advisory  
18 committee. This subsection does not affect the state auditor's  
19 authority to conduct an audit of the fund under Chapter 321,  
20 Government Code.

21 (f) The board or trust company shall adopt a written  
22 investment policy that is appropriate for the fund. If the fund is  
23 managed by the trust company:

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

27 (2) the board and investment advisory board shall

1 submit to the trust company recommendations regarding the policy.

2 (g) If the fund is managed by the trust company, the board  
3 annually shall provide to the trust company a forecast of the cash  
4 flows into and out of the fund. The board shall provide updates to  
5 the forecasts as appropriate to assist the trust company in  
6 achieving the objectives specified by Subsection (b).

7 (h) If the fund is managed by the trust company, the company  
8 shall disburse money from the fund as directed by the board. The  
9 board shall direct disbursements from the fund on a schedule  
10 specified by the board. If any applicable revenue bonds are  
11 outstanding, the board shall direct disbursements from the fund not  
12 more frequently than twice in any state fiscal year.

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

15 Sec. 202.003. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS  
16 OR ACCOUNTS. (a) The board or the trust company at the direction of  
17 the board shall make disbursements from the fund to the revenue fund  
18 in the amounts the board determines are needed for disbursement  
19 through the financing structures developed to meet the goals of the  
20 fund, including transfer of those amounts to other board programs  
21 or funds as necessary, or for debt service payments on or security  
22 provisions of the board's revenue bonds, after considering all  
23 other sources available for those purposes.

24 (b) The fund may be used only to:

25 (1) enhance the reliability and resiliency of water,  
26 electric, and natural gas utilities, broadband providers, and power  
27 generation companies for this state by supporting projects,



1 including projects to weatherize facilities and reduce demand, in  
2 order to provide resilience and continuous service during periods  
3 of high demand;

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

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

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

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

12 (1) a water utility project;

13 (2) an electric utility project;

14 (3) a natural gas utility project;

15 (4) a power generation company project;

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

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

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

27 (f) In providing financial assistance under Subsection (d),

1 the board may make, enter into, and enforce contracts, agreements,  
2 including management agreements, for the management of any of the  
3 board's property, leases, indentures, mortgages, deeds of trust,  
4 security agreements, pledge agreements, credit agreements,  
5 overrides or other revenue sharing mechanisms, repurchase  
6 agreements, and other instruments with any person, including any  
7 lender and any federal, state, or local governmental agency, and to  
8 take other actions as may accomplish any of its purposes.

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

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

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

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

25 (b) The board shall establish a point system for  
26 prioritizing projects for which financial assistance is sought from  
27 the board. The system must include a standard for the board to

1 apply in determining whether a project qualifies for financial  
2 assistance at the time the application for financial assistance is  
3 filed with the board.

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

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

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

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

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

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

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

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

27 (2) the financial capacity of the applicant to repay

1 the financial assistance provided; and

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

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

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

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

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

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

15 (B) a member of the committee of the senate  
16 having primary jurisdiction over natural resources;

17 (3) three members of the house of representatives  
18 appointed by the speaker of the house of representatives,  
19 including:

20 (A) a member of the committee of the house of  
21 representatives having primary jurisdiction over appropriations;  
22 and

23 (B) a member of the committee of the house of  
24 representatives having primary jurisdiction over natural  
25 resources;

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

1 the Office of Public Utility Counsel;

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

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

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

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

12 (c) An appointed member of the advisory committee serves at  
13 the will of the officer who appointed the member.

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

19 (e) The advisory committee shall hold public hearings,  
20 formal meetings, or work sessions in a location with audio and video  
21 capacity. The board shall broadcast over the Internet live video  
22 and audio of each public hearing, formal meeting, or work session of  
23 the advisory committee and provide access to each broadcast on the  
24 board's Internet website. Either co-presiding officer of the  
25 advisory committee may call a public hearing, formal meeting, or  
26 work session of the advisory committee after issuing a public  
27 notice not later than the seventh day before the date of the public

1 hearing, formal meeting, or work session. The public notice must  
2 include an agenda with formal actions included. The advisory  
3 committee may not take formal action at a public hearing, formal  
4 meeting, or work session unless a quorum of the committee is  
5 present. The board shall provide access on the board's Internet  
6 website to the public notices, recordings of the live broadcasts,  
7 and minutes of public hearings, formal meetings, and work sessions.

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

17 (g) The advisory committee shall submit comments and  
18 recommendations to the board regarding the use of money in the fund  
19 and in the revenue fund for use by the board in adopting rules under  
20 Section 202.006 and in adopting policies and procedures under  
21 Section 202.008. The submission must include:

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

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

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

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

6           (5) an evaluation of the use of funds by the board to  
7 provide support for financial assistance for projects that enhance  
8 the reliability and resiliency of water, electric, and natural gas  
9 utilities, broadband providers, and power generation companies for  
10 this state, including support for the purposes described by Section  
11 202.003(b);

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

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

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

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

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

27           (k) The advisory committee is subject to Chapter 325,

1 Government Code (Texas Sunset Act). Unless continued in existence  
2 as provided by that chapter, the advisory committee is abolished  
3 and this section expires September 1, 2035.

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

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

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

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

16 (2) the participation level of historically  
17 underutilized businesses in projects that receive funding under  
18 this chapter.

19 (o) If the aggregate level of participation by historically  
20 underutilized businesses in projects that receive funding under  
21 this chapter does not meet statewide annual goals adopted under  
22 Chapter 2161, Government Code, the advisory committee shall make  
23 recommendations to the board to improve the participation level.

24 Sec. 202.006. RULES. (a) The board shall adopt rules  
25 providing for the use of money in the fund that are consistent with  
26 this subchapter, including rules:

27 (1) establishing standards for determining whether



1 projects meet the criteria provided by Section 202.003;

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

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

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

10 Sec. 202.007. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)  
11 Not later than December 1 of each even-numbered year, the board  
12 shall provide a report to the governor, lieutenant governor,  
13 speaker of the house of representatives, and members of the  
14 legislature regarding the use of the fund.

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

18 (1) the progress made in enhancing critical water,  
19 electric, natural gas, and broadband infrastructure to withstand  
20 periods of high demand; and

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

23 Sec. 202.008. POLICIES AND PROCEDURES TO MITIGATE OR  
24 MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall  
25 adopt, and may amend from time to time at the board's discretion,  
26 policies and procedures for the purpose of mitigating or minimizing  
27 the adverse effects, if any, of federal laws and regulations

1 relating to income taxes, arbitrage, rebates, and related matters  
2 that may restrict the board's ability to freely invest all or part  
3 of the fund or to receive and retain all the earnings from the fund.

4 Sec. 202.009. COOPERATION WITH OTHER STATE AGENCIES. (a)

5 The commission, railroad commission, the State Energy Conservation  
6 Office, and other state agencies shall provide resources to the  
7 board that the board determines are necessary to carry out the  
8 board's duties and responsibilities under this chapter.

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

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

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

22 Sec. 202.010. RELIABILITY AND RESILIENCY STUDY AND PLAN.

23 (a) The board may, at any time, develop and conduct a study of the  
24 needs, causes, and methods to address reliability and resiliency of  
25 the industries affected by this chapter and may develop a statewide  
26 reliability and resiliency plan.

27 (b) The board may, at any time, use money from the fund to

1 contract and engage outside entities to develop a study or plan  
2 considered necessary by the board.

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

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

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

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

21 CHAPTER 203. STATE UTILITIES RELIABILITY REVENUE FUND

22 Sec. 203.001. REVENUE FUND. (a) The state utilities  
23 reliability revenue fund is a special fund in the state treasury  
24 outside the general revenue fund to be used by the board as  
25 authorized by this chapter without further legislative  
26 appropriation. The board may establish separate accounts in the  
27 revenue fund and may transfer money between accounts. The board has

1 legal title to money and investments in the revenue fund until the  
2 money is disbursed as provided by this chapter and board rules.

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

5 (c) The revenue fund consists of:

6 (1) money appropriated to the revenue fund;

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

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

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

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

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

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

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

25 Sec. 203.002. MANAGEMENT AND INVESTMENT OF REVENUE FUND.

26 (a) Money deposited to the credit of the revenue fund shall be  
27 invested as determined by the board. The revenue fund may be

1 invested with the state treasury pool.

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

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

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

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

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

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

25 (3) projects to weatherize facilities.

26 (b) Financial assistance for projects under Subsection (a)  
27 may be provided in any form determined by the board that meets the

1 needs and goals of this state and the applicants, including a market  
2 rate, low-interest, or no-interest loan, a loan guarantee, an  
3 equity ownership in a public or private entity, a joint venture with  
4 a public or private entity, a grant, an interest rebate, or an  
5 interest subsidy.

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

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

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

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

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

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

26 (2) to pay the necessary and reasonable expenses of  
27 paying agents, bond counsel, and financial advisory services and

1 similar costs incurred by the board in administering the revenue  
2 fund; or

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

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

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

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

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

15 Sec. 203.004. ISSUANCE OF REVENUE BONDS. (a) The board may  
16 issue revenue bonds for the purpose of providing money for the  
17 revenue fund.

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

21 (c) Revenue bonds issued under this chapter are special  
22 obligations of the board payable only from and secured by  
23 designated income and receipts of the revenue fund, or of one or  
24 more accounts in the revenue fund, including principal of and  
25 interest paid and to be paid on revenue fund assets or income from  
26 accounts created within the revenue fund by the board, as  
27 determined by the board.

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

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

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

11       (g) Revenue bonds issued under this chapter may:

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

14               (2) be dated;

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

18               (4) be callable before stated maturity on the terms  
19 and at the prices, be in the denominations, be in the form, either  
20 coupon or registered, carry registration privileges as to principal  
21 only or as to both principal and interest and as to successive  
22 exchange of coupon for registered bonds or one denomination for  
23 bonds of other denominations, and successive exchange of registered  
24 revenue bonds for coupon revenue bonds, be executed in the manner,  
25 and be payable at the place or places inside or outside the state,  
26 as provided by the resolution;

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



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

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

9           (h) Section 17.955, Water Code, applies to revenue bonds  
10 issued under this chapter in the same manner as that section applies  
11 to water financial assistance bonds.

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

21           (j) The proceeds received from the sale of revenue bonds  
22 issued under this chapter may be deposited or invested in any manner  
23 and in such investments as may be specified in the resolution or  
24 other proceedings authorizing those obligations. Money in the  
25 revenue fund or accounts created by this chapter or created in the  
26 resolution or other proceedings authorizing the revenue bonds may  
27 be invested in any manner and in any obligations as may be specified

1 in the resolution or other proceedings.

2 Sec. 203.005. CHAPTER CUMULATIVE OF OTHER LAWS. (a) This  
3 chapter is cumulative of other laws on the subject, and the board  
4 may use provisions of other applicable laws in the issuance of bonds  
5 and other obligations, but this chapter is wholly sufficient  
6 authority for the issuance of bonds and other obligations and the  
7 performance of all other acts and procedures authorized by this  
8 chapter.

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

13 SECTION 4. Section 15.102(b), Water Code, is amended to  
14 read as follows:

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

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

21 (2) grants for:

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

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

26 (C) water conservation, desalination, brush  
27 control, weather modification, regionalization, and projects

1 providing regional water quality enhancement services as defined by  
2 board rule, including regional conveyance systems; and

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

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

11 (b) The executive administrator of the Texas Water  
12 Development Board, in coordination with the Public Utility  
13 Commission of Texas, the Texas Commission on Environmental Quality,  
14 the Railroad Commission of Texas, the State Energy Conservation  
15 Office, and the independent organization certified under Section  
16 39.151, Utilities Code, for the ERCOT power region, shall conduct a  
17 study regarding:

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

- 20 (A) water utility facilities;
- 21 (B) electric utility facilities;
- 22 (C) natural gas utility facilities;
- 23 (D) power generation companies; and
- 24 (E) broadband provider facilities;

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

1 electric and natural gas demand; and

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

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

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

12 (e) This section expires September 1, 2023.

13 SECTION 6. As soon as practicable after the effective date  
14 of this Act, the lieutenant governor and the speaker of the house of  
15 representatives shall appoint the initial appointive members of the  
16 State Utilities Reliability Fund Advisory Committee as provided by  
17 Section 202.005, Utilities Code, as added by this Act.

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

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

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

1 March 1, 2023.

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

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

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

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

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

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