

By: Huberty

H.B. No. 2000

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the funding of utility reliability projects by the
3 Texas Water Development Board and other entities; authorizing the
4 issuance of revenue bonds, granting rulemaking authority, and
5 making an appropriation.

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

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

15 (b) To accomplish that purpose, this Act creates the state
16 utilities reliability fund. The fund is intended to serve as a
17 utility infrastructure bank in order to enhance the financing
18 capabilities of the Texas Water Development Board under a
19 constitutionally created program and a revenue bond program. Money
20 in the fund will be available immediately to provide support for
21 market rate loans, low-interest loans, longer repayment terms for
22 loans, and deferral of loan payments. Money in the fund may not be
23 used to make grants. In addition, this Act creates the state
24 utilities reliability revenue fund for use in managing revenue

1 bonds issued by the board that are supported by the state utilities
2 reliability fund.

3 SECTION 2. Title 2, Water Code, is amended by adding
4 Subtitle G to read as follows:

5 SUBTITLE G. RELIABILITY OF STATE UTILITIES

6 CHAPTER 38 GENERAL PROVISIONS

7 Sec. 38.001. DEFINITIONS. In this subtitle:

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

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

11 (3) "Broadband utility" means any person,
12 corporation, municipality, political subdivision or agency that
13 owns or operates for compensation in this state equipment or
14 facilities to provide broadband telecommunications capability and
15 Internet access in this state.

16 (4) "Electric utility" means any person, corporation,
17 municipality, political subdivision or agency that owns or operates
18 for compensation in this state equipment or facilities to produce,
19 generate, transmit, distribute, sell, or furnish electricity in
20 this state.

21 (5) "Executive administrator" means the executive
22 administrator of the Texas Water Development Board.

23 (6) "Facilities" means all of the plant and equipment
24 of an electric, natural gas, water, or broadband utility and
25 includes the tangible and intangible property, without limitation,
26 owned, operated, leased, licensed, used, controlled, or supplied
27 for, by, or in connection with the business of the electric, natural

1 gas, water or broadband utility in this state.

2 (7) "Fund" means the state utilities reliability fund.

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

5 (9) "Natural gas utility" means any person,
6 corporation, municipality, political subdivision or agency that
7 owns or operates for compensation in this state equipment or
8 facilities to transmit or distribute combustible hydrocarbon
9 natural gas or synthetic natural gas for sale or resale in a manner
10 not subject to the jurisdiction of the Federal Energy Regulatory
11 Commission under the Natural Gas Act (15 U.S.C. Section 717 et
12 seq.).

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

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

17 (12) "Water utility" means any person, corporation,
18 municipality, political subdivision or agency operating,
19 maintaining, or controlling in this state facilities for providing
20 potable water service or sewer service, or both, for compensation.

21 CHAPTER 39. STATE UTILITIES RELIABILITY FUND

22 Sec. 39.001. FUND. (a) The state utilities reliability
23 fund is a special fund in the state treasury outside the general
24 revenue fund to be used by the board, without further legislative
25 appropriation, for the purpose of financing projects that enhance
26 the reliability of water, electricity, natural gas and broadband
27 utilities in this state by supporting projects to weatherize

1 facilities and to provide adequate capacity during periods of high
2 demand. The board may establish separate accounts in the fund. The
3 fund and the fund's accounts are kept and held by the trust company
4 for and in the name of the board. The board has legal title to money
5 and investments in the fund until money is disbursed from the fund
6 as provided by this chapter and board rules. It is the intent of the
7 legislature that the fund will never be used:

8 (1) for a purpose other than the support of projects
9 that enhance the reliability of water, electricity, natural gas and
10 broadband utilities in this state and to pay expenses authorized by
11 section 39.003; or

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

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

17 (c) The fund consists of:

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

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

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

27 (4) investment earnings and interest earned on amounts

1 credited to the fund; and

2 (5) money transferred to the fund under a bond
3 enhancement agreement from another fund or account to which money
4 from the fund was transferred under a bond enhancement agreement,
5 as authorized by Section 39.004.

6 Sec. 39.002. MANAGEMENT AND INVESTMENT OF FUND. (a) The
7 trust company shall hold and invest the fund, and any accounts
8 established in the fund, for and in the name of the board, taking
9 into account the purposes for which money in the fund may be used.
10 The fund may be invested with the state treasury pool.

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

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

25 (d) The trust company may charge fees to cover its costs
26 incurred in managing and investing the fund. The fees must be
27 consistent with the fees the trust company charges other state and

1 local governmental entities for which it provides investment
2 management services. The trust company may recover fees it charges
3 under this subsection only from the earnings of the fund.

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

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

18 (g) The board shall provide to the trust company an annual
19 forecast of the cash flows into and out of the fund. The board shall
20 provide updates to the forecasts as appropriate to ensure that the
21 trust company is able to achieve the objective specified by
22 Subsection (b).

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

27 (i) An investment-related contract entered into under this

1 section is not subject to Chapter 2260, Government Code.

2 Sec. 39.003. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
3 OR ACCOUNTS. (a) At the direction of the board, the trust company
4 shall make disbursements from the fund to the state utilities
5 reliability revenue fund pursuant to a bond enhancement agreement
6 authorized by Section 39.004 in the amounts the board determines
7 are needed for debt service payments on or security provisions of
8 the board's revenue bonds, after considering all other sources
9 available for those purposes.

10 (b) The fund may be used only:

11 (1) to enhance the reliability of water, electricity,
12 natural gas and broadband utilities for this state by supporting
13 projects to weatherize facilities and to provide adequate capacity
14 to ensure continuous and adequate service during periods of high
15 demand; and

16 (2) to pay the necessary and reasonable expenses of
17 the board in administering the fund.

18 (c) notwithstanding any other provision in this chapter,
19 the use of the fund may be prioritized based on future legislative
20 directives, including any statewide utility reliability plan
21 required in the future.

22 Sec. 39.004. BOND ENHANCEMENT AGREEMENTS. (a) A bond
23 enhancement agreement entered into under this section is an
24 agreement for professional services. A bond enhancement agreement
25 must contain terms that are consistent with Section 39.002(h), and
26 the agreement, including the period covered by the agreement and
27 all other terms and conditions of the agreement, must be approved by

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

9 (b) To facilitate the use of the fund for the purposes of
10 this chapter, the board may direct the trust company to enter into
11 bond enhancement agreements to:

12 (1) provide a source of revenue or security for the
13 payment of the principal of and interest on revenue bonds issued by
14 the board to finance, or

15 (2) refinance projects authorized by chapter 40 of
16 this title.

17 (c) If the trust company enters into a bond enhancement
18 agreement under Subsection (b), the board may direct the trust
19 company to make disbursements from the fund to provide financial
20 assistance for a project authorized by this chapter or by chapter 40
21 of this title in the form of:

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

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

1 (A) the expected useful life of the facility; or
2 (B) 30 years;
3 (3) a deferral of loan repayment, including deferral
4 of the repayment of:

5 (A) principal and interest; or
6 (B) accrued interest; or
7 (4) a combination of the methods of financing
8 described by Subdivisions (1)-(3).

9 (d) The board may direct the trust company to enter into
10 bond enhancement agreements with respect to refunding bonds issued
11 by the board to refund bonds issued by the board the proceeds of
12 which have been or are to be used for projects authorized by this
13 chapter and which otherwise satisfied the requirements of
14 Subsections (b) and (c).

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

19 (g) The board may not direct the trust company to enter into
20 a bond enhancement agreement with respect to bonds issued by the
21 board the proceeds of which may be used to provide financial
22 assistance to an applicant if at the time of the request the
23 applicant has failed to satisfactorily complete a request by the
24 executive administrator for information relevant to the project for
25 which the financial assistance is sought.

26 (h) The board may not direct the trust company to enter into
27 a bond enhancement agreement with respect to bonds issued by the

1 board the proceeds of which may be used to provide financial
2 assistance to an applicant unless at the time of the request the
3 applicant has acknowledged its legal obligation to comply with any
4 applicable requirements of:

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

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

9 (i) The board may not approve a bond enhancement agreement
10 unless the agreement contains a provision to the effect that if the
11 trust company makes a disbursement under the bond enhancement
12 agreement from the fund to the credit of the state utilities
13 reliability revenue fund as provided by Section 39.003(a), the
14 board may direct the comptroller to transfer an amount not to exceed
15 that amount from the state utilities reliability revenue fund back
16 to the fund if:

17 (1) money is certified by the executive director to be
18 a surplus balance in the state utilities reliability revenue fund
19 for that purpose; and

20 (2) the money transferred back to the fund will not
21 cause bonds that are payable from the state utilities reliability
22 revenue fund to rate below the highest rating category for any bonds
23 outstanding.

24 (j) For purposes of Subsection (i)(1), the surplus balance
25 of the state utilities reliability revenue fund is the amount of
26 money on deposit in the fund, as determined by the board, that is
27 attributable to the revenue bonds, including money received from

1 the sale or other disposition of the board's rights to receive
2 repayment of financial assistance, money received from the sale of
3 utilities associated with a modified facility, and related
4 investment earnings, that exceeds the amount required to pay annual
5 debt service on the bonds and any other amounts specified in the
6 resolution or other proceedings authorizing the bonds and any
7 related obligations.

8 (k) The board shall submit each bond enhancement agreement
9 and the record relating to the agreement to the attorney general for
10 examination as to the validity of the agreement. If the attorney
11 general finds that the agreement has been made in accordance with
12 the constitution and other laws of this state, the attorney general
13 shall approve the agreement and the comptroller shall register the
14 agreement. If the agreement is not submitted at the same time that
15 the bonds to which it relates are submitted, the agreement shall be
16 treated as a public security solely for the purposes of Section
17 [1202.004](#), Government Code.

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

21 (m) At the direction of the board, the trust company shall
22 make disbursements from the fund, or from a special account
23 established by the board, in accordance with a bond enhancement
24 agreement in the amounts the board determines are needed for debt
25 service payments on, or for security provisions of, revenue bonds
26 issued by the board the proceeds of the sale of which have been
27 deposited in the state utilities reliability revenue fund, or in an

1 account in that fund, for use in accordance with this chapter, after
2 the board considers all other sources available for those purposes
3 in that fund or account. Money transferred under this subsection
4 may be deposited into that fund or into a special account
5 established by the trust company or a corporate trustee that is a
6 trust company or a bank that has the powers of a trust company, as
7 determined by the board.

8 Sec. 39.005. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
9 board, for the purpose of providing financial assistance under this
10 chapter, shall prioritize projects that enhance the reliability of
11 water, electricity, natural gas and broadband utilities for this
12 state.

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

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

22 (1) weatherize facilities to protect against cold
23 weather; and

24 (2) create excess capacity that will be used during
25 periods of high demand to provide continuous and adequate electric,
26 natural gas, water and broadband service.

27 (d) In addition to the criteria provided by Subsection (c),

1 the board must also consider at least the following criteria in
2 prioritizing projects:

3 (1) other contributions to be made to finance the
4 project, including the up-front capital to be provided by the
5 applicant;

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

8 (3) the ability of the board and the applicant to
9 timely leverage state financing with local, federal or private
10 funding;

11 (4) whether there is an emergency need for the
12 project, taking into consideration whether federal funding for
13 which the project is eligible has been used or sought; and

14 (5) whether the applicant is ready to proceed with the
15 project at the time of the application, including whether:

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

18 (B) the applicant has acquired any necessary
19 rights associated with the project;

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

22 (D) the applicant is able to begin implementing
23 or constructing the project.

24 Sec. 39.006. ADVISORY COMMITTEE. (a) The State Utilities
25 Reliability Fund Advisory Committee is composed of the following
26 seven members:

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

1 comptroller;

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

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

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

8 (3) three members of the house of representatives
9 appointed by the speaker of the house of representatives,
10 including:

11 (A) a member of the committee of the house of
12 representatives having primary jurisdiction over appropriations;
13 and

14 (B) a member of the committee of the house of
15 representatives having primary jurisdiction over natural
16 resources.

17 (b) Board staff shall provide staff support for the advisory
18 committee.

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

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

26 (e) The advisory committee may hold public hearings, formal
27 meetings, or work sessions. Either co-presiding officer of the

1 advisory committee may call a public hearing, formal meeting, or
2 work session of the advisory committee at any time. 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.

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

15 (g) The advisory committee shall submit comments and
16 recommendations to the board regarding the use of money in the fund
17 and in the revenue fund for use by the board in adopting rules under
18 Section 39.007 and in adopting policies and procedures under
19 Section 39.009. The submission must include:

20 (1) comments and recommendations on rulemaking
21 related to the prioritization of projects in accordance with
22 Section 39.005;

23 (2) comments and recommendations on rulemaking
24 related to establishing standards for determining whether projects
25 meet the criteria provided by Section 39.003(b);

26 (3) an evaluation of the available programs for
27 providing financing for projects authorized by this chapter and

1 guidelines for implementing those programs;

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

4 (5) an evaluation of the use of funds by the board to
5 provide support for financial assistance for projects that enhance
6 the reliability of water, electricity, natural gas and broadband
7 utilities for this state, including support for the purposes
8 described by Section 39.004(c);

9 (6) an evaluation of whether premium financing
10 programs should be established within the funds described by
11 Section 39.004 to serve the purposes of this chapter, especially in
12 connection with projects described by Section 39.003(b);

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

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

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

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

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

1 (k) The advisory committee is subject to Chapter 325,
2 Government Code (Texas Sunset Act). Unless continued in existence
3 as provided by that chapter, the advisory committee is abolished
4 and this section expires September 1, 2035.

5 (l) The advisory committee shall make recommendations to
6 the board regarding information to be posted on the board's
7 Internet website under Section 39.008(b).

8 (m) The advisory committee shall evaluate and may provide
9 comments or recommendations on the feasibility of the state owning,
10 constructing, and operating water, electricity, natural gas or
11 broadband utilities.

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 related
18 to a bond enhancement agreement under this chapter.

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

25 Sec. 39.007. RULES. (a) The board shall adopt rules
26 providing for the use of money in the fund that are consistent with
27 this chapter, including rules:

1 (1) establishing standards for determining whether
2 projects meet the criteria provided by Section 39.003(b); and

3 (2) specifying the manner for prioritizing projects
4 for purposes of Section 39.005.

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

8 Sec. 39.008. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
9 Not later than December 1 of each even-numbered year, the board
10 shall provide a report to the governor, lieutenant governor,
11 speaker of the house of representatives, and members of the
12 legislature regarding the use of the fund.

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

16 (1) the progress made in enhancing the reliability of
17 water, electricity, natural gas and broadband utilities for this
18 state; and

19 (2) a description of each project funded through bonds
20 supported by a bond enhancement agreement entered into under
21 Section 39.004, including:

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

24 (B) the current status of the project.

25 Sec. 39.009. POLICIES AND PROCEDURES TO MITIGATE OR
26 MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall
27 adopt, and may amend from time to time at the board's discretion,

1 policies and procedures for the purpose of mitigating or minimizing
2 the adverse effects, if any, of federal laws and regulations
3 relating to income taxes, arbitrage, rebates, and related matters
4 that may restrict the board's ability to freely invest all or part
5 of the fund or to receive and retain all the earnings from the fund.

6 CHAPTER 40. STATE UTILITIES RELIABILITY REVENUE FUND

7 Sec. 40.001. FUND. (a) The state utilities reliability
8 revenue fund is a special fund in the state treasury outside the
9 general revenue fund to be a revolving finance program used by the
10 board, without further legislative appropriation, only for the
11 purpose of providing financing for projects that enhance the
12 reliability of water, electricity, natural gas and broadband
13 utilities for this state by supporting projects to weatherize
14 facilities and to provide adequate capacity during periods of high
15 demand. The board may establish separate accounts in the revenue
16 fund. The board has legal title to money and investments in the
17 revenue fund until the money is disbursed as provided by this
18 chapter and board rules. It is the intent of the legislature that
19 the revenue fund will never be used:

20 (1) for a purpose other than the support of projects
21 that enhance the reliability of water, electricity, natural gas and
22 broadband utilities for this state; or

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

26 (b) Money deposited to the credit of the revenue fund may be
27 used only as provided by this chapter.

1 (c) The revenue fund consists of:

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

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

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

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

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

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

18 (7) money disbursed to the revenue fund from the state
19 utilities reliability fund as authorized by Section 39.003.

20 Sec. 40.002. MANAGEMENT AND INVESTMENT OF REVENUE FUND.

21 (a) Money deposited to the credit of the revenue fund shall be
22 invested as determined by the board. The revenue fund may be
23 invested with the state treasury pool.

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

27 (c) At the direction of the board, the revenue fund and any

1 accounts established in the revenue fund may be managed by the
2 comptroller or a corporate trustee that is a trust company or a bank
3 that has the powers of a trust company for and on behalf of the board
4 and pending their use for the purposes provided by this chapter may
5 be invested as provided by an order, resolution, or rule of the
6 board.

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

10 Sec. 40.003. USE OF REVENUE FUND. (a) Except as provided
11 by Subsection (c), money in the revenue fund may be used by the
12 board only to provide financing or refinancing, under terms
13 specified by the board, for projects that enhance the reliability
14 of water, electricity, natural gas and broadband utilities for this
15 state by weatherizing facilities or by providing adequate capacity
16 during periods of high demand.

17 (b) Financing or refinancing of projects described by
18 Subsection (a) may be provided by using money in the revenue fund to
19 make loans to eligible water, electric, natural gas and broadband
20 utilities or to purchase bonds or other obligations of eligible
21 water, electric, natural gas and broadband utilities bearing
22 interest at a rate or rates determined by the board, including a
23 rate at or rates below prevailing market rates.

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

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

26 (A) the payment of the principal of and interest
27 on revenue bonds issued by the board under this chapter; or

1 (B) a bond enhancement agreement; or
2 (2) to pay the necessary and reasonable expenses of
3 paying agents, bond counsel, and financial advisory services and
4 similar costs incurred by the board in administering the revenue
5 fund.

6 (d) The board, or comptroller or corporate trustee managing
7 the revenue fund at the direction of the board as provided by
8 Section 40.003(c), shall withdraw from the revenue fund and forward
9 to another person any amounts, as determined by the board, for
10 timely payment of:

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

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

17 Sec. 40.004. ISSUANCE OF REVENUE BONDS. (a) The board may
18 issue revenue bonds for the purpose of providing money for the
19 revenue fund.

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

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

1 accounts created within the revenue fund by the board, as
2 determined by the board.

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

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

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

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

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

16 (2) be dated;

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

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

1 as provided by the resolution;

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

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

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

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

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

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

1 resolution or other proceedings authorizing the revenue bonds may
2 be invested in any manner and in any obligations as may be specified
3 in the resolution or other proceedings.

4 Sec. 40.005. CHAPTER CUMULATIVE OF OTHER LAWS. (a) This
5 chapter is cumulative of other laws on the subject, and the board
6 may use provisions of other applicable laws in the issuance of bonds
7 and other obligations and the execution of bond enhancement
8 agreements, but this chapter is wholly sufficient authority for the
9 issuance of bonds and other obligations, the execution of bond
10 enhancement agreements, and the performance of all other acts and
11 procedures authorized by this chapter.

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

16 SECTION 3. Section 15.978, Water Code, is amended by adding
17 subsection (c-1) to read as follows:

18 (c-1) Notwithstanding other provisions of this chapter, the
19 board may sell to the Texas Water Resources Finance Authority or to
20 the state utilities reliability fund any political subdivision
21 bonds purchased with money in the state utilities reliability
22 revenue fund and may apply the proceeds of a sale in the manner
23 provided by Chapter 40 of this title.

24 SECTION 4. As soon as practicable after the effective date
25 of this Act, the lieutenant governor and the speaker of the house of
26 representatives shall appoint the initial appointive members of the
27 State Utilities Reliability Fund Advisory Committee as provided by

1 Section 39.006, Water Code, as added by this Act.

2 SECTION 5. (a) Not later than September 1, 2022, the State
3 Utilities Reliability Fund Advisory Committee shall submit
4 recommendations to the Texas Water Development Board on the rules
5 to be adopted by the board under Sections 39.007(a)(1) and (2),
6 Water Code, as added by this Act.

7 (b) Not later than the later of the 90th day after the date
8 the Texas Water Development Board receives the recommendations
9 described by Subsection (a) of this section or March 1, 2023, the
10 board shall propose rules under Section 39.007, Water Code, as
11 added by this Act.

12 SECTION 6. The Texas Water Development Board shall post the
13 information described by Section 39.008(b), Water Code, as added by
14 this Act, on the board's Internet website not later than March 1,
15 2022.

16 SECTION 7. This Act takes effect on the date on which the
17 constitutional amendment proposed by the 87th Legislature, Regular
18 Session, 2021, adding Sections 49-d-15 and 49-d-16, Article III,
19 Texas Constitution, creating the state utilities reliability fund
20 and the state utilities reliability revenue fund takes effect. If
21 that amendment is not approved by the voters, this Act has no
22 effect.