

By: Perry, et al.  
(King of Uvalde, Troxclair, et al.)

S.B. No. 28

Substitute the following for S.B. No. 28:

By: King of Uvalde

C.S.S.B. No. 28

A BILL TO BE ENTITLED

AN ACT

relating to financial assistance provided and programs administered by the Texas Water Development Board.

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

SECTION 1. Section 10.010, Water Code, is amended to read as follows:

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water ~~conservation~~ public awareness program developed under Section 16.026 [~~16.401~~] and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation

1 strategies by water users included in regional water plans; and

2 (7) monitor target and goal guidelines for water  
3 conservation to be considered by the board and commission.

4 SECTION 2. Chapter 15, Water Code, is amended by adding  
5 Subchapter C-1 to read as follows:

6 SUBCHAPTER C-1. NEW WATER SUPPLY FOR TEXAS FUND

7 Sec. 15.151. DEFINITION. In this subchapter, "fund" means  
8 the new water supply for Texas fund.

9 Sec. 15.152. FUND. (a) The new water supply for Texas fund  
10 is a special fund in the state treasury. The fund consists of:

11 (1) money appropriated for transfer or deposit to the  
12 credit of the fund;

13 (2) money the board transfers to the fund from any  
14 available source;

15 (3) depository interest allocable to the fund and  
16 other investment returns on money in the fund;

17 (4) money from gifts, grants, or donations to the  
18 fund; and

19 (5) any other fees or sources of revenue that the  
20 legislature may dedicate for deposit to the fund.

21 (b) The fund is exempt from the application of Section  
22 403.095, Government Code.

23 Sec. 15.153. USE OF FUND. (a) The board by rule shall  
24 undertake to finance projects through the fund that will lead to the  
25 acquisition or creation of seven million acre-feet of new water  
26 supplies by December 31, 2033.

27 (b) The fund may be used to:

1           (1) provide financial assistance to political  
2 subdivisions to develop water supply projects that create new water  
3 sources for the state, including:

4                   (A) the acquisition of water from other states;

5                   (B) desalination projects, including marine and  
6 brackish water desalination;

7                   (C) produced water treatment projects, other  
8 than projects that are only for purposes of oil and gas exploration;

9                   (D) aquifer storage and recovery projects;

10                   (E) potable water reuse projects; and

11                   (F) the development of infrastructure to  
12 transport water that is made available by a project described by  
13 this subdivision;

14           (2) make transfers from the fund:

15                   (A) to the state water implementation fund for  
16 Texas established under Subchapter G or the Texas Water Development  
17 Fund II established under Subchapter L, Chapter 17; and

18                   (B) for a purpose described by Subdivision (1);  
19 and

20           (3) make transfers from the fund to the water bank  
21 account established under Section 15.707 only for the acquisition  
22 or transfer of water originating outside this state.

23           (c) The fund may be used for any purpose described by  
24 Subsection (b) under criteria developed by the board. A loan made  
25 from the fund under this subchapter may provide for repayment terms  
26 of up to 30 years, in the board's discretion.

27           (d) Financial assistance for a purpose described by

1 Subsection (b)(1):

2 (1) may be provided for a qualifying project under  
3 Chapter 2267, Government Code, only if the project complies with  
4 that chapter; and

5 (2) may not be provided for expenses associated with  
6 the maintenance or operation of a water supply project described by  
7 Subsection (b)(1).

8 Sec. 15.154. FINANCIAL ASSISTANCE. (a) The board shall  
9 adopt rules necessary to administer this subchapter, including  
10 rules establishing procedures for the application for and award of  
11 financial assistance, the distribution of financial assistance,  
12 the investment of funds, and the administration of financial  
13 assistance and the fund.

14 (b) When evaluating an application for financial assistance  
15 from a political subdivision, the board shall consider:

16 (1) the intended end users of the water supply, the  
17 needs of the area to be served by the project, the expected benefit  
18 of the project to the area, the relationship of the project to the  
19 water supply needs of this state overall, and the relationship of  
20 the project to the state water plan;

21 (2) the amount of water expected to be produced by the  
22 project; and

23 (3) the availability of money or revenue to the  
24 political subdivision from all sources for the ultimate repayment  
25 of the cost of the project, including all interest.

26 (c) The board by resolution may approve an application if,  
27 after considering the factors listed in Subsection (b) and other

1 relevant factors, the board finds that:

2 (1) the public interest is served by state assistance  
3 for the project; and

4 (2) for an application for financial assistance in the  
5 form of a loan, the money or revenue pledged by the political  
6 subdivision will be sufficient to meet all the obligations assumed  
7 by the political subdivision during the term of the loan.

8 (d) The repayment of principal or interest on a loan made  
9 under this subchapter must be deposited to the credit of the Texas  
10 water fund. This subsection does not apply to a loan made under  
11 other law with money transferred under Section 15.153(b)(2).

12 (e) An application from a political subdivision for  
13 financial assistance under this subchapter must comply with the  
14 requirements of Section 16.4021.

15 (f) Sections 17.183-17.187 apply to the construction of  
16 projects funded under this subchapter.

17 SECTION 3. Section 15.438(a), Water Code, is amended to  
18 read as follows:

19 (a) The State Water Implementation Fund for Texas Advisory  
20 Committee is composed of the following seven members:

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

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

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

27 (B) the chair [~~a member~~] of the committee of the

1 senate having primary jurisdiction over water [~~natural~~] resources;  
2 and

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

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

9 (B) the chair [~~a member~~] of the committee of the  
10 house of representatives having primary jurisdiction over water  
11 [~~natural~~] resources.

12 SECTION 4. Section 15.472(a), Water Code, is amended to  
13 read as follows:

14 (a) The state water implementation revenue fund for Texas is  
15 a special fund in the state treasury outside the general revenue  
16 fund to be used by the board, without further legislative  
17 appropriation, only for the purpose of providing financing for  
18 projects included in the state water plan that are authorized under  
19 Subchapter C-1, Q, or R of this chapter, Subchapter E or F, Chapter  
20 16, or Subchapter J or L, Chapter 17. The board may establish  
21 separate accounts in the fund. The board has legal title to money  
22 and investments in the fund until the money is disbursed as provided  
23 by this subchapter and board rules. It is the intent of the  
24 legislature that the fund will never be used:

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

27 (2) to certify that appropriations from the treasury

1 are within the amount estimated to be available in a fund of the  
2 treasury affected by the appropriation.

3 SECTION 5. Section 15.474(a), Water Code, is amended to  
4 read as follows:

5 (a) Except as provided by Subsection (c), money in the fund  
6 may be used by the board only to provide financing or refinancing,  
7 under terms specified by the board, for projects included in the  
8 state water plan that are authorized under Subchapter C-1, Q, or R  
9 of this chapter, Subchapter E or F, Chapter 16, or Subchapter J or  
10 L, Chapter 17, including water conservation or reuse projects  
11 designed to reduce the need for this state or political  
12 subdivisions of this state to develop additional water resources.

13 SECTION 6. Chapter 15, Water Code, is amended by adding  
14 Subchapter H-1 to read as follows:

15 SUBCHAPTER H-1. TEXAS WATER FUND

16 Sec. 15.501. DEFINITION. In this subchapter, "fund" means  
17 the Texas water fund.

18 Sec. 15.502. FUND. (a) The Texas water fund is a special  
19 fund in the state treasury outside the general revenue fund. The  
20 fund is administered by the board.

21 (b) The board may use the fund only to transfer money to:

22 (1) the water assistance fund established under  
23 Subchapter B;

24 (2) the new water supply for Texas fund established  
25 under Subchapter C-1;

26 (3) the state water implementation fund for Texas  
27 established under Subchapter G;

1           (4) the state water implementation revenue fund for  
2 Texas established under Subchapter H;

3           (5) a revolving fund established under Subchapter J;

4           (6) the rural water assistance fund established under  
5 Subchapter R;

6           (7) the statewide water public awareness account  
7 established under Section 16.027;

8           (8) the Texas Water Development Fund II water  
9 financial assistance account established under Section 17.959; and

10           (9) the Texas Water Development Fund II state  
11 participation account established under Section 17.957.

12           (c) Money and investments in the fund shall be kept and held  
13 for and in the name of the board.

14           (d) The comptroller may not use the fund for certification  
15 under Section 49a, Article III, Texas Constitution.

16           (e) Money in the fund may be used only as provided by this  
17 subchapter.

18           (f) The fund consists of:

19           (1) money transferred or deposited to the credit of  
20 the fund by law, including money appropriated by the legislature  
21 directly to the fund and money from any source transferred or  
22 deposited to the credit of the fund as authorized by law;

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

25           (3) investment earnings and interest earned on amounts  
26 credited to the fund;

27           (4) money from gifts, grants, or donations to the



1 fund; and

2 (5) money returned from any authorized transfer.

3 Sec. 15.503. MANAGEMENT AND INVESTMENT OF FUND. (a) Money  
4 in the fund shall be invested as determined by the board. If  
5 managed by the comptroller, the fund may be invested with the state  
6 treasury pool.

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

9 (c) The money in the fund may be managed by the board, the  
10 comptroller, or a corporate trustee that is a trust company or a  
11 bank that has the powers of a trust company for and on behalf of the  
12 board and pending the money's use for the purposes provided by this  
13 subchapter, if managed by a corporate trustee, may be invested as  
14 provided by an order, resolution, or rule of the board.

15 (d) If directed by the board to manage the fund under  
16 Subsection (c), a corporate trustee shall manage the fund in strict  
17 accordance with this subchapter and the orders, resolutions, and  
18 rules of the board. In managing the assets of the fund, the board,  
19 comptroller, or corporate trustee may acquire, exchange, sell,  
20 supervise, manage, or retain any kind of investment that a prudent  
21 investor, exercising reasonable care, skill, and caution, would  
22 acquire or retain in light of the purposes, terms, distribution  
23 requirements, and other circumstances of the fund then prevailing,  
24 taking into consideration the investment of all the assets of the  
25 fund rather than a single investment. The reasonable expenses of  
26 managing the fund's assets shall be paid from the fund.

27 Sec. 15.504. USE OF FUND. (a) The board by resolution may

1 make transfers from the fund to a fund or account described by  
2 Section 15.502(b) for an authorized purpose of the receiving fund  
3 or account.

4 (b) The board may not transfer money to a fund or account  
5 described by Section 15.502(b) until the application for the  
6 project for which the money is to be used has been approved.

7 (c) The board shall ensure that a portion of the money  
8 transferred from the fund is used for:

9 (1) water or wastewater infrastructure projects,  
10 prioritized by risk or need, for:

11 (A) rural political subdivisions; and

12 (B) municipalities with a population of less than  
13 150,000;

14 (2) projects for which all required state or federal  
15 permitting has been substantially completed, as determined by the  
16 board;

17 (3) the statewide water public awareness program  
18 established under Section 16.026; and

19 (4) water conservation strategies.

20 (d) Money transferred from the fund for the purposes  
21 described by Subsection (c) may be transferred to funds or accounts  
22 described by Section 15.502(b) to be used to provide financial  
23 assistance for any purpose described by Subsection (c) under  
24 criteria developed by the board and in accordance with law.

25 (e) Money deposited to the credit of the fund as provided by  
26 Section 15.154(d) may be used only for the purposes described by  
27 Section 15.153(b).

1       (f) The board may use the fund to pay the necessary and  
2 reasonable expenses of the board in administering the fund.

3       Sec. 15.505. TRANSFER OF MONEY. Notwithstanding any other  
4 law:

5             (1) the board may:

6                     (A) transfer money from the fund into any other  
7 fund or account described by Section 15.502(b); and

8                     (B) restore to the fund money transferred from  
9 the fund and deposited to the credit of a fund or account described  
10 by Section 15.502(b); and

11             (2) a fund or account described by Section 15.502(b)  
12 may accept a transfer of money made under this subchapter.

13       Sec. 15.506. ADVISORY COMMITTEE. (a) The State Water  
14 Implementation Fund for Texas Advisory Committee established under  
15 Section 15.438:

16             (1) shall submit comments and recommendations to the  
17 board regarding the use of money in the fund for use by the board in  
18 adopting rules under Section 15.507;

19             (2) shall review the overall operation, function, and  
20 structure of the fund at least annually and may provide comments and  
21 recommendations to the board on any matter; and

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

25       (b) The advisory committee may not recommend specific  
26 projects for consideration for receipt of financial assistance from  
27 the fund.

1       Sec. 15.507. RULES. (a) The board may adopt rules  
2 providing for the use of money in the fund that are consistent with  
3 this subchapter.

4       (b) Rules adopted under this section must require each  
5 recipient of financial assistance administered through the fund to  
6 submit to the board a water conservation plan consistent with the  
7 requirements of Section 16.4021.

8       SECTION 7. Section 15.994(c), Water Code, is amended to  
9 read as follows:

10       (c) The board may use money in the fund to contract for  
11 outreach, financial, planning, and technical assistance to assist  
12 rural political subdivisions [~~in obtaining and using financing from~~  
13 ~~any source~~] for a purpose described by this section, including in  
14 obtaining and using financing from funds and accounts administered  
15 by the board.

16       SECTION 8. Section 16.0121, Water Code, is amended by  
17 adding Subsections (k) and (l) to read as follows:

18       (k) The board by rule shall establish a program to provide  
19 technical assistance to retail public utilities in conducting water  
20 audits required under Subsections (b) and (b-1) and in applying for  
21 financial assistance from the board to mitigate the utility  
22 system's water loss. The board may provide for the implementation  
23 of the program established under this subsection by contracting or  
24 partnering with other entities. Rules adopted under this section  
25 must provide for the prioritization of technical assistance to  
26 retail public utilities based on:

27               (1) water loss audits submitted to the board;

1           (2) the population served by the utility; and

2           (3) the integrity of the utility's system.

3           (1) The board shall post on the board's Internet website  
4 information that:

5           (1) summarizes the information compiled under  
6 Subsection (f);

7           (2) summarizes the measures taken by retail public  
8 utilities to reduce water loss; and

9           (3) identifies the retail public utilities  
10 participating in the program established under Subsection (k) and  
11 details the use of financial assistance provided under that  
12 subsection.

13           SECTION 9. Section 16.401, Water Code, is transferred to  
14 Subchapter B, Chapter 16, Water Code, redesignated as Section  
15 16.026, Water Code, and amended to read as follows:

16           Sec. 16.026 [~~16.401~~]. STATEWIDE WATER [~~CONSERVATION~~]  
17 PUBLIC AWARENESS PROGRAM. (a) The executive administrator shall  
18 develop and implement a statewide water [~~conservation~~] public  
19 awareness program to educate residents of this state about water  
20 [~~conservation~~]. The program shall take into account the  
21 differences in water [~~conservation~~] needs of various geographic  
22 regions of the state and shall be designed to complement and support  
23 existing local and regional water education or awareness  
24 [~~conservation~~] programs.

25           (b) The executive administrator is required to develop and  
26 implement the program required by Subsection (a) in a state fiscal  
27 biennium only if the legislature appropriates sufficient money in

1 that biennium specifically for that purpose.

2 SECTION 10. Subchapter B, Chapter 16, Water Code, is  
3 amended by adding Section 16.027 to read as follows:

4 Sec. 16.027. STATEWIDE WATER PUBLIC AWARENESS ACCOUNT. (a)

5 The statewide water public awareness account is an account in the  
6 general revenue fund. The account consists of:

7 (1) money appropriated to the board for deposit to the  
8 credit of the account;

9 (2) money transferred by the board to the credit of the  
10 account from other funds available to the board;

11 (3) money from gifts or grants to the account from any  
12 source, including the federal government, an educational  
13 institution, or a private donor;

14 (4) proceeds from the sale of educational or public  
15 awareness materials, publications, and other items deposited to the  
16 credit of the account; and

17 (5) interest earned on the investment of money in the  
18 account and depository interest allocable to the account.

19 (b) The account may be used by the board to develop,  
20 administer, and implement the statewide water public awareness  
21 program established by Section 16.026.

22 (c) The board may invest, reinvest, and direct the  
23 investment of available money in the account as provided by law for  
24 the investment of money under Section 404.024, Government Code.

25 (d) The account is exempt from the application of Section  
26 403.095, Government Code.

27 SECTION 11. Section 16.4021(b), Water Code, is amended to

1 read as follows:

2 (b) This section applies to an application for financial  
3 assistance under:

4 (1) Subchapters C, C-1, D, E, G, H, J, O, Q, and R,  
5 Chapter 15;

6 (2) Subchapters E and F of this chapter; and

7 (3) Subchapters D, F, I, K, and L, Chapter 17.

8 SECTION 12. Not later than January 1, 2024, the Texas Water  
9 Development Board shall adopt rules as required by Section  
10 16.0121(k), Water Code, as added by this Act.

11 SECTION 13. (a) Except as otherwise provided by this Act,  
12 this Act takes effect September 1, 2023.

13 (b) Section 6 of this Act takes effect January 1, 2024, but  
14 only if the constitutional amendment proposed by the 88th  
15 Legislature, Regular Session, 2023, creating the Texas water fund  
16 to assist in financing water projects in this state is approved by  
17 the voters. If that constitutional amendment is not approved by  
18 the voters, Section 6 of this Act has no effect.