

By: Perry

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. Chapter 15, Water Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. NEW WATER SUPPLY FOR TEXAS FUND

Sec. 15.451. DEFINITION. In this subchapter, "fund" means the new water supply for Texas fund.

Sec. 15.452. FUND. The new water supply for Texas fund is a special fund in the state treasury. The fund consists of:

(1) money appropriated to the board for a purpose of the fund;

(2) money the board transfers to the fund from an available source;

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

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

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

Sec. 15.453. USE OF FUND. (a) The board by rule shall undertake to finance projects through the fund that will lead to the acquisition or creation of seven million acre-feet of new water

1 supplies by December 31, 2033.

2 (b) The fund may be used only to provide low-interest loans  
3 to political subdivisions and wholesale water providers to develop  
4 water supply projects that create new water sources for the state  
5 including:

6 (1) the acquisition of water from other states;

7 (2) the development of infrastructure to transport  
8 water from other states;

9 (3) desalination projects, including marine and  
10 brackish water desalination;

11 (4) produced water treatment projects; and

12 (5) research into new technology that may lead to the  
13 development of significant new water supply sources, as determined  
14 by the board based on the amount of water the technology may  
15 produce.

16 (c) The fund may be used to provide zero interest loans,  
17 negative interest loans, or loan forgiveness for any purpose  
18 described by Subsection (b) under criteria developed by the board.  
19 Loans made under this subchapter may provide for repayment terms of  
20 up to 40 years, in the board's discretion.

21 (d) Financial assistance described by Subsection (c) for a  
22 purpose described by Subsection (b) may be provided for a public  
23 works project that includes the participation of or a financial  
24 contribution from a nongovernmental entity, including a wholesale  
25 water provider, only if a political subdivision is a participant in  
26 the project.

27 (e) The board may not provide financial assistance from the

1 fund if the balance of the fund is less than \$50 million.

2 Sec. 15.454. FINANCIAL ASSISTANCE. (a) The board shall  
3 adopt rules necessary to administer this subchapter, including  
4 rules establishing procedures for the application for and award of  
5 loans, the distribution of loans, the investment of funds, and the  
6 administration of loans and the fund.

7 (b) In passing on an application from a political  
8 subdivision or wholesale water provider for financial assistance,  
9 the board shall consider:

10 (1) the needs of the area to be served by the project,  
11 the expected benefit of the project to the area, the relationship of  
12 the project to the water needs of this state overall, and the  
13 relationship of the project to the state water plan;

14 (2) the amount of water expected to be produced by the  
15 project; and

16 (3) the availability of revenue to the political  
17 subdivision or wholesale water provider from all sources for the  
18 ultimate repayment of the cost of the project, including all  
19 interest.

20 (c) The board by resolution may approve an application if,  
21 after considering the factors listed in Subsection (b) and other  
22 relevant factors, the board finds that:

23 (1) the public interest is served by state assistance  
24 for the project; and

25 (2) the revenue or taxes pledged by the political  
26 subdivision or wholesale water provider will be sufficient to meet  
27 all the obligations assumed by the political subdivision or

1 wholesale water provider during the succeeding period of not more  
2 than 30 years.

3 (d) The repayment of principal or interest on a loan made  
4 under this subchapter must be deposited to the credit of the Texas  
5 water fund.

6 (e) An application from a political subdivision or  
7 wholesale water provider for financial assistance under this  
8 subchapter must comply with the requirements of Section 16.4021.

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

11 SECTION 2. Chapter 15, Water Code, is amended by adding  
12 Subchapter H-1 to read as follows:

13 SUBCHAPTER H-1. TEXAS WATER FUND

14 Sec. 15.501. DEFINITION. In this subchapter, "fund" means  
15 the Texas water fund.

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

19 (b) The board may use the fund only to disburse money to:

20 (1) the water assistance fund established under  
21 Subchapter B;

22 (2) the State Water Implementation Fund for Texas  
23 established under Subchapter G;

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

26 (4) a revolving fund established under Subchapter J;

27 (5) the rural water assistance fund established under

1 Subchapter R; and

2 (6) the Texas Water Development Fund established under  
3 Subchapter C, Chapter 17.

4 (c) The board has legal title to money and investments in  
5 the fund.

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

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

10 (f) The fund consists of:

11 (1) money transferred or deposited to the credit of  
12 the fund by law, including money from any source transferred or  
13 deposited to the credit of the fund as authorized by law;

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

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

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

20 (5) the redeposit of money disbursed from the fund.

21 Sec. 15.503. MANAGEMENT AND INVESTMENT OF FUND. (a) Money  
22 in the fund shall be invested as determined by the board. The fund  
23 may be invested with the state treasury pool.

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

26 (c) The fund may be managed by the comptroller or a  
27 corporate trustee that is a trust company or a bank that has the

1 powers of a trust company for and on behalf of the board and pending  
2 their use for the purposes provided by this subchapter may be  
3 invested as provided by an order, resolution, or rule of the board.

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

7 Sec. 15.504. USE OF FUND. (a) Subject to legislative  
8 appropriation, the board may make disbursements from the fund to a  
9 fund described by Section 15.502(b) for an authorized purpose of  
10 the receiving fund.

11 (b) The board may not disburse money to a fund described by  
12 Section 15.502(b) until the application for the project for which  
13 the money is to be used has been approved.

14 (c) The board shall ensure that a portion of the money  
15 disbursed from the fund is used for:

16 (1) water infrastructure projects, prioritized by  
17 risk or need, for:

18 (A) rural political subdivisions, as defined by  
19 Section 15.992; and

20 (B) municipalities with a population of less than  
21 150,000;

22 (2) permit-ready water infrastructure projects; and

23 (3) water conservation awareness programs.

24 (d) Money disbursed from the fund for the purposes described  
25 by Subsection (c) may be disbursed to funds described by Section  
26 15.502(b) to be used to provide zero interest loans, negative  
27 interest loans, loan forgiveness, or grants for any purpose

1 described by Subsection (c) under criteria developed by the board.

2 (e) Money deposited to the credit of the fund as provided by  
3 Section 15.454(d) may be used only for the purposes described by  
4 Section 15.453(b).

5 Sec. 15.505. ADVISORY COMMITTEE. The State Water  
6 Implementation Fund for Texas Advisory Committee established under  
7 Section 15.438:

8 (1) shall submit comments and recommendations to the  
9 board regarding the use of money in the fund for use by the board in  
10 adopting rules under Section 15.506;

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

14 (3) may adopt rules, procedures, and policies as  
15 needed to administer this section and implement its  
16 responsibilities.

17 Sec. 15.506. RULES. (a) The board may adopt rules  
18 providing for the use of money in the fund that are consistent with  
19 this subchapter.

20 (b) Rules adopted under this section must require each  
21 recipient of financial assistance administered through the fund to  
22 submit to the board a water conservation plan that complies with the  
23 requirements of Section 16.4021.

24 SECTION 3. Section 15.994(c), Water Code, is amended to  
25 read as follows:

26 (c) The board may use money in the fund to contract for  
27 outreach, financial, planning, and technical assistance to assist

1 rural political subdivisions [~~in obtaining and using financing from~~  
2 ~~any source~~] for a purpose described by this section.

3 SECTION 4. Section 16.0121, Water Code, is amended by  
4 adding Subsections (k) and (l) to read as follows:

5 (k) The board by rule shall establish a program to provide  
6 technical assistance to retail public utilities in conducting water  
7 audits required under Subsections (b) and (b-1) and in applying for  
8 financial assistance from the board to mitigate the utility  
9 system's water loss. Rules adopted under this section must provide  
10 for the prioritization of technical assistance to retail public  
11 utilities based on:

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

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

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

15 (l) The board shall submit to the legislature every fifth  
16 year a water loss report that:

17 (1) summarizes the information compiled under  
18 Subsection (f);

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

21 (3) identifies the retail public utilities  
22 participating in the program established under Subsection (k) and  
23 details the use of financial assistance provided under that  
24 subsection.

25 SECTION 5. Section 16.4021(b), Water Code, is amended to  
26 read as follows:

27 (b) This section applies to an application for financial

1 assistance under:

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

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

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

6 SECTION 6. (a) Except as otherwise provided by this Act,  
7 this Act takes effect September 1, 2023.

8 (b) Section 2 of this Act takes effect January 1, 2024, but  
9 only if the constitutional amendment proposed by the 88th  
10 Legislature, Regular Session, 2023, creating the Texas water fund  
11 to assist in financing water projects in this state is approved by  
12 the voters. If that constitutional amendment is not approved by  
13 the voters, Section 2 of this Act has no effect.