

By: Perry, et al.
(Gerdes)

S.B. No. 1261

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water supply projects included in the state water plan; authorizing the issuance of obligations.

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

SECTION 1. Subtitle F, Title 9, Government Code, is amended by adding Chapter 1373 to read as follows:

CHAPTER 1373. OBLIGATIONS FOR WATER PROJECTS

Sec. 1373.001. DEFINITIONS. In this chapter:

(1) "Eligible project" means one or more related water supply projects:

(A) that are identified as recommended water management strategies in the state water plan; and

(B) the cumulative capital costs of which are not less than \$750 million.

(2) "Indebtedness" means a bond, note, or other obligation of an issuer issued or incurred pursuant to any statutory authority other than this chapter.

(3) "Issuer" means an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state.

(4) "Obligation" means a bond, note, or other obligation, whether payable or secured by taxes other than ad valorem taxes, revenues, or a combination thereof.

1 (5) "Obligation authorization" means the order,
2 ordinance, or resolution of the issuer authorizing the obligation.

3 (6) "State water plan" means the comprehensive water
4 plan for the state adopted under Section 16.051, Water Code.

5 Sec. 1373.002. APPLICABILITY. This chapter does not apply
6 to financial assistance provided by the Texas Water Development
7 Board.

8 Sec. 1373.003. CONSTRUCTION. This chapter shall be
9 liberally construed to achieve the legislative intent and purposes
10 of this chapter. A power granted by this chapter shall be broadly
11 interpreted to achieve the intent and purposes.

12 Sec. 1373.004. RELATIONSHIP TO OTHER LAW. (a) To the
13 extent of any conflict or inconsistency between this chapter and
14 another law or a municipal charter, this chapter controls.

15 (b) An issuer may use any provision of another law that does
16 not conflict with this chapter to the extent convenient or
17 necessary as determined by the issuer to carry out any power or
18 authority, express or implied, granted by this chapter, without
19 reference to any other laws or any restrictions or limitations
20 contained in those laws.

21 (c) Chapter 1207 applies to the refunding of obligations
22 issued or incurred under this chapter.

23 Sec. 1373.005. AUTHORITY TO ISSUE OBLIGATIONS.
24 Notwithstanding any other law, as authorized and approved by the
25 governing body of an issuer, obligations may be issued, sold,
26 incurred, and delivered to:

27 (1) finance or refinance an eligible project;

1 (2) refund obligations, other indebtedness, or
2 contractual obligations of the issuer issued or incurred in
3 connection with an eligible project; and

4 (3) pay the costs of issuance or delivery of the
5 obligations.

6 Sec. 1373.006. SECURITY FOR OBLIGATION. (a) An obligation
7 may be secured by:

8 (1) the proceeds from the sale of other obligations or
9 indebtedness of the issuer, including proceeds from the sale of
10 revenue bonds payable from the revenue to be received from an
11 eligible project or a specified user of an eligible project;

12 (2) subject to Subsection (d), any revenue that the
13 issuer is authorized by the constitution, a statute, or the charter
14 of a home-rule municipality to pledge or pay any kind of general or
15 special indebtedness by or from those revenues;

16 (3) water supply contracts or water treatment
17 contracts or other similar contracts or the revenue received from
18 those contracts; or

19 (4) any combination of the sources described by this
20 subsection.

21 (b) The governing body of an issuer may secure an obligation
22 and pay the cost of a contract or other agreement executed and
23 delivered in connection with the financing of an eligible project
24 with a pledge of the sources permitted by this chapter.

25 (c) Notwithstanding any other law, if an issuer secures an
26 obligation with contracts or the revenue from those contracts, the
27 term of the contracts may not be less than the final maturity or

1 term of such obligations pursuant to Section 1373.008.

2 (d) An obligation may not be secured wholly or partly by a
3 pledge of ad valorem taxes.

4 Sec. 1373.007. USE OF PROCEEDS. An issuer may use the
5 proceeds from the issuance or incurrence of an obligation to
6 finance and refinance an eligible project, including costs
7 authorized by Section 1201.042(a).

8 Sec. 1373.008. MATURITY OR TERM OF OBLIGATIONS. (a) The
9 maximum maturity or term of an obligation issued or incurred
10 pursuant to this chapter may not exceed the lesser of:

11 (1) the reasonably expected weighted average useful
12 life of the eligible project as certified by a licensed
13 professional engineer selected by the issuer; or

14 (2) 50 years from the date of issuance or incurrence of
15 the obligation.

16 (b) The determination of reasonably expected weighted
17 average useful life of an eligible project made under Subsection
18 (a) may not be contested for any reason.

19 Sec. 1373.009. OBLIGATION AUTHORIZATION. (a) The
20 governing body of an issuer must adopt or approve an obligation
21 authorization before an obligation may be issued or incurred.

22 (b) The obligation authorization must establish:

23 (1) the maximum amount of the obligation to be issued
24 or incurred or, if applicable, the maximum principal amount that
25 may be outstanding at any time;

26 (2) subject to Section 1373.008, the maximum term for
27 which the obligation issued or incurred under the authorization may

1 be outstanding;

2 (3) the maximum interest rate the obligation may bear;

3 (4) subject to Subsection (c)(2), the manner of sale
4 of the obligation, which may be by public or private sale, the price
5 of the obligation, the form of the obligation, and the terms,
6 representations, and covenants of the issuer made in connection
7 with the issuance or incurrence of the obligation, if applicable;
8 and

9 (5) each source pledged or to be pledged to the payment
10 of the obligation.

11 (c) The obligation authorization may:

12 (1) provide for the designation of a paying agent and
13 registrar for the obligation; and

14 (2) authorize one or more designated officers or
15 employees of the issuer to act on behalf of the issuer from time to
16 time in selling, incurring, and delivering obligations and setting
17 the dates, price, interest rates, interest payment periods,
18 redemption features, and other procedures relating to the issuance,
19 sale, incurrence, and delivery of obligations, as specified in the
20 obligation authorization.

21 Sec. 1373.010. EFFECT OF FINDING OR DETERMINATION UNDER
22 DELEGATION OF AUTHORITY. A finding or determination made by an
23 officer or employee acting under the authority delegated to the
24 officer or employee by an obligation authorization adopted or
25 approved under this chapter has the same force and effect as a
26 finding or determination made by the governing body.

27 Sec. 1373.011. REVIEW AND APPROVAL OF OBLIGATION AND

1 CONTRACT BY ATTORNEY GENERAL. (a) Before an obligation may be
2 issued or incurred, a record of the proceedings of the issuer
3 authorizing the issuance, execution, incurrence, and delivery of
4 the obligation and any contract providing revenue or security
5 pledged to the payment of the obligation must be submitted to the
6 attorney general for review.

7 (b) If the attorney general finds that the proceedings
8 authorizing an obligation conform to the requirements of the Texas
9 Constitution and this chapter, the attorney general shall approve
10 it and deliver to the comptroller a copy of the attorney general's
11 legal opinion stating that approval and the record of proceedings.
12 After approval, the obligation may be executed and delivered,
13 exchanged, or refinanced from time to time in accordance with those
14 authorizing proceedings.

15 Sec. 1373.012. REGISTRATION. On receipt of the documents
16 required by Section 1373.011(b), the comptroller shall register the
17 record of the proceedings relating to the issuance of an
18 obligation.

19 Sec. 1373.013. VALIDITY AND INCONTESTABILITY. (a) If
20 proceedings to authorize an obligation are approved by the attorney
21 general and registered by the comptroller, each obligation and any
22 contract that provides revenue or security included in or executed
23 and delivered according to the authorizing proceedings and pledged
24 to the payment of the obligation is incontestable in a court or
25 other forum and is valid, binding, and enforceable according to its
26 terms.

27 (b) Notwithstanding Subsection (a) and except as provided

1 by this subsection, an obligation authorized by this chapter is not
2 valid, binding, or enforceable unless the obligation is approved by
3 the attorney general and registered by the comptroller in
4 accordance with Chapter 1202.

5 SECTION 2. Section 15.435(c), Water Code, is amended to
6 read as follows:

7 (c) If the trust company enters into a bond enhancement
8 agreement under Subsection (b), the board may direct the trust
9 company to make disbursements from the fund to another fund or
10 account for the support of bonds the proceeds of which are used to
11 provide financial assistance in the form of:

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

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

18 (A) the expected useful life of the facility; or

19 (B) 30 years or, for an eligible project, as
20 defined by Section 1373.001, Government Code, 40 years;

21 (3) a deferral of loan repayment, including deferral
22 of the repayment of:

23 (A) principal and interest; or

24 (B) accrued interest;

25 (4) incremental repurchase terms for an acquired
26 facility, including terms for no initial repurchase payment
27 followed by progressively increasing incremental levels of

1 interest payment, repurchase of principal and interest, and
2 ultimate repurchase of the entire state interest in the facility
3 using simple interest calculations; or

4 (5) a combination of the methods of financing
5 described by Subdivisions (1)-(4).

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

8 (a) Except as provided by Subsection (c), money in the fund
9 may be used by the board only to provide financing or refinancing,
10 under terms specified by the board, for an eligible project, as
11 defined by Section 1373.001, Government Code, or for projects
12 included in the state water plan that are authorized under
13 Subchapter C-1, Q, or R of this chapter, Subchapter E or F, Chapter
14 16, or Subchapter J or L, Chapter 17, including water conservation
15 or reuse projects designed to reduce the need for this state or
16 political subdivisions of this state to develop additional water
17 resources.

18 SECTION 4. Section 17.852(5), Water Code, is amended to
19 read as follows:

20 (5) "Project" includes water supply projects,
21 treatment works, ~~and~~ flood projects, as defined by Section 15.531
22 or 16.451, and eligible projects as defined by Section 1373.001,
23 Government Code.

24 SECTION 5. Section 17.957(c), Water Code, is amended to
25 read as follows:

26 (c) Money on deposit in the state participation account may
27 be used by the board, in the manner that the board determines

necessary for the administration of the fund, for:

(1) eligible projects, as defined by Section 1373.001,
Government Code; and

(2) projects described in Sections 16.131 and 16.146
~~[in the manner that the board determines necessary for the~~
~~administration of the fund].~~

SECTION 6. This Act takes effect September 1, 2025.