

By: Perry

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. ISSUANCE OF BONDS BY POLITICAL SUBDIVISIONS FOR WATER PROJECTS

Sec. 1373.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Water Development Board.

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

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

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

(3) "Indebtedness" means a bond, note, certificate of participation, contract, or loan agreement of an issuer issued or incurred pursuant to any statutory authority other than this chapter.

(4) "Issuer" means a political subdivision as that term is defined by Section 16.001, Water Code.

(5) "Obligation" means a bond, note, certificate of participation, contract, or loan agreement, whether payable or

1 secured by taxes, revenues, or a combination thereof.

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

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

6 Sec. 1373.002. CONSTRUCTION. This chapter shall be
7 liberally construed to achieve the legislative intent and purposes
8 of this chapter. A power granted by this chapter shall be broadly
9 interpreted to achieve the intent and purposes.

10 Sec. 1373.003. RELATIONSHIP TO OTHER LAW. (a) To the
11 extent of any conflict or inconsistency between this chapter and
12 another law or a municipal charter, this chapter controls.

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

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

21 Sec. 1373.004. AUTHORITY TO ISSUE OBLIGATIONS.
22 Notwithstanding any other law, as authorized and approved by the
23 governing body of an issuer, obligations may be issued, sold,
24 incurred, and delivered to:

25 (1) finance or refinance an eligible project;

26 (2) refund obligations, other indebtedness, or
27 contractual obligations of the issuer issued or incurred in

1 connection with an eligible project; and

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

4 Sec. 1373.005. SECURITY FOR OBLIGATION. (a) An obligation
5 may be secured by:

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

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

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

17 (4) any combination of the sources described by this
18 subsection.

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

23 (c) Notwithstanding any other law, if an issuer secures an
24 obligation with contracts or the revenue from those contracts, the
25 term of the contracts may not be less than the final maturity or
26 term of such obligations pursuant to Section 1373.008.

27 (d) Any obligations payable wholly or partly from a pledge

1 of ad valorem taxes to finance or refinance an eligible project must
2 be approved by the voters of the issuer at an election held for that
3 purpose.

4 Sec. 1373.006. 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. 1373.007. TEXAS WATER DEVELOPMENT BOARD FINANCING OR
9 FUNDING OF ELIGIBLE PROJECTS. (a) Any financing or funding
10 provided by the board for an eligible project may not exceed the
11 maturity or term of an obligation pledged to the project.

12 (b) If the design, construction, and placing into service of
13 an eligible project is estimated to take more than four years, as
14 certified by a licensed professional engineer selected by the
15 issuer, the board shall make a multiyear commitment of any
16 financing or funding provided by the board of the eligible project
17 at the request of the issuer.

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

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

24 (2) 40 years from the date of issuance of the
25 obligation.

26 (b) The determination of reasonably expected weighted
27 average useful life of an eligible project made under Subsection

1 (a) may not be contested for any reason.

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

5 (b) The obligation authorization must establish:

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

9 (2) subject to Section 1373.008, the maximum term for
10 which the obligation issued or incurred under the authorization may
11 be outstanding;

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

13 (4) subject to Subsection (c)(2), the manner of sale
14 of the obligation, which may be by public or private sale, the price
15 of the obligation, the form of the obligation, and the terms,
16 representations, and covenants of the issuer made in connection
17 with the issuance of the obligation, if applicable; and

18 (5) each source pledged or to be pledged to the payment
19 of the obligation.

20 (c) The obligation authorization may:

21 (1) provide for the designation of a paying agent and
22 registrar for the obligation; and

23 (2) authorize one or more designated officers or
24 employees of the issuer to act on behalf of the issuer from time to
25 time in selling, incurring, and delivering obligations and setting
26 the dates, price, interest rates, interest payment periods,
27 redemption features, and other procedures relating to the issuance,

1 sale, incurrence, and delivery of obligations, as specified in the
2 obligation authorization.

3 Sec. 1373.010. EFFECT OF FINDING OR DETERMINATION UNDER
4 DELEGATION OF AUTHORITY. A finding or determination made by an
5 officer or employee acting under the authority delegated to the
6 officer or employee by an obligation authorization adopted or
7 approved under this chapter has the same force and effect as a
8 finding or determination made by the governing body.

9 Sec. 1373.011. REVIEW AND APPROVAL OF OBLIGATION AND
10 CONTRACT BY ATTORNEY GENERAL. (a) Before an obligation may be
11 issued or incurred, a record of the proceedings of the issuer
12 authorizing the issuance, execution, incurrence, and delivery of
13 the obligation and any contract providing revenue or security
14 pledged to the payment of the obligation must be submitted to the
15 attorney general for review.

16 (b) If the attorney general finds that the proceedings
17 authorizing an obligation conform to the requirements of the Texas
18 Constitution and this chapter, the attorney general shall approve
19 it and deliver to the comptroller a copy of the attorney general's
20 legal opinion stating that approval and the record of proceedings.
21 After approval, the obligation may be executed and delivered,
22 exchanged, or refinanced from time to time in accordance with those
23 authorizing proceedings.

24 Sec. 1373.012. REGISTRATION. On receipt of the documents
25 required by Section 1373.011(b), the comptroller shall register the
26 record of the proceedings relating to the issuance of an
27 obligation.

1 Sec. 1373.013. VALIDITY AND INCONTESTABILITY. (a) If
2 proceedings to authorize an obligation are approved by the attorney
3 general and registered by the comptroller, each obligation and any
4 contract that provides revenue or security included in or executed
5 and delivered according to the authorizing proceedings and pledged
6 to the payment of the obligation is incontestable in a court or
7 other forum and is valid, binding, and enforceable according to its
8 terms.

9 (b) Notwithstanding Subsection (a) and except as provided
10 by this subsection, an obligation authorized by this chapter is not
11 valid, binding, or enforceable unless the obligation is approved by
12 the attorney general and registered by the comptroller in
13 accordance with Chapter 1202.

14 SECTION 2. Section 15.432(b), Water Code, is amended to
15 read as follows:

16 (b) Money deposited to the credit of the fund may be used:
17 (1) only as provided by this subchapter; and
18 (2) for eligible projects authorized under Chapter
19 1373, Government Code.

20 SECTION 3. Section 15.435(c), Water Code, is amended to
21 read as follows:

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

27 (1) a loan bearing an interest rate of not less than 50

1 percent of the then-current market rate of interest available to
2 the board;

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

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

7 (B) 30 years or, for an eligible project
8 authorized by Chapter 1373, Government Code, 40 years;

9 (3) a deferral of loan repayment, including deferral
10 of the repayment of:

11 (A) principal and interest; or

12 (B) accrued interest;

13 (4) incremental repurchase terms for an acquired
14 facility, including terms for no initial repurchase payment
15 followed by progressively increasing incremental levels of
16 interest payment, repurchase of principal and interest, and
17 ultimate repurchase of the entire state interest in the facility
18 using simple interest calculations; or

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

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

23 (a) Except as provided by Subsection (c), money in the fund
24 may be used by the board only to provide financing or refinancing,
25 under terms specified by the board, for an eligible project
26 authorized under Chapter 1373, Government Code, or for projects
27 included in the state water plan that are authorized under

1 Subchapter C-1, Q, or R of this chapter, Subchapter E or F, Chapter
2 16, or Subchapter J or L, Chapter 17, including water conservation
3 or reuse projects designed to reduce the need for this state or
4 political subdivisions of this state to develop additional water
5 resources.

6 SECTION 5. Section 17.852(5), Water Code, is amended to
7 read as follows:

8 (5) "Project" includes water supply projects,
9 treatment works, ~~and~~ flood projects, as defined by Section 15.531
10 or 16.451, and eligible projects as defined by Section 1373.001,
11 Government Code.

12 SECTION 6. Section 17.957(c), Water Code, is amended to
13 read as follows:

14 (c) Money on deposit in the state participation account may
15 be used by the board, in the manner that the board determines
16 necessary for the administration of the fund, for:

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

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

22 SECTION 7. This Act takes effect September 1, 2025.