

1-1 By: Perry, Flores S.B. No. 28
1-2 (In the Senate - Filed March 6, 2023; March 7, 2023, read
1-3 first time and referred to Committee on Water, Agriculture & Rural
1-4 Affairs; March 21, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 28 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to financial assistance provided and programs
1-22 administered by the Texas Water Development Board.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 15, Water Code, is amended by adding
1-25 Subchapter C-1 to read as follows:

1-26 SUBCHAPTER C-1. NEW WATER SUPPLY FOR TEXAS FUND

1-27 Sec. 15.151. DEFINITION. In this subchapter, "fund" means
1-28 the new water supply for Texas fund.

1-29 Sec. 15.152. FUND. The new water supply for Texas fund is a
1-30 special fund in the state treasury. The fund consists of:

1-31 (1) money appropriated to the board for a purpose of
1-32 the fund;

1-33 (2) money the board transfers to the fund from an
1-34 available source;

1-35 (3) depository interest allocable to the fund and
1-36 other investment returns on money in the fund;

1-37 (4) money from gifts, grants, or donations to the
1-38 fund; and

1-39 (5) any other fees or sources of revenue that the
1-40 legislature may dedicate for deposit to the fund.

1-41 Sec. 15.153. USE OF FUND. (a) The board by rule shall
1-42 undertake to finance projects through the fund that will lead to the
1-43 acquisition or creation of seven million acre-feet per year of new
1-44 water supplies by December 31, 2033.

1-45 (b) The fund may be used only to provide:

1-46 (1) financial assistance to political subdivisions to
1-47 develop water supply projects that create new water sources for the
1-48 state, including:

1-49 (A) the acquisition of water from other states;

1-50 (B) the development of infrastructure to
1-51 transport water from other states;

1-52 (C) desalination projects, including marine and
1-53 brackish water desalination; and

1-54 (D) produced water treatment projects, other
1-55 than projects that are only for purposes of oil and gas exploration;
1-56 or

1-57 (2) grants to institutions of higher education or
1-58 qualified research entities, as determined by the board, to conduct
1-59 research into new technology that may lead to the development of
1-60 significant new water supply sources, as determined by the board

2-1 based on the amount of water the technology may produce.

2-2 (c) The fund may be used to provide financial assistance for
 2-3 any purpose described by Subsection (b) under criteria developed by
 2-4 the board. A loan made under this subchapter may provide for
 2-5 repayment terms of up to 30 years, in the board's discretion.

2-6 (d) Financial assistance described by Subsection (c) for a
 2-7 purpose described by Subsection (b)(1):

2-8 (1) may be provided for a qualifying project under
 2-9 Chapter 2267, Government Code; and

2-10 (2) may not be provided for expenses associated with
 2-11 the maintenance or operation of a water supply project described by
 2-12 Subsection (b)(1).

2-13 (e) The board may not provide financial assistance from the
 2-14 fund if the balance of the fund is less than \$50 million.

2-15 Sec. 15.154. FINANCIAL ASSISTANCE. (a) The board shall
 2-16 adopt rules necessary to administer this subchapter, including
 2-17 rules establishing procedures for the application for and award of
 2-18 loans, the distribution of loans, the investment of funds, and the
 2-19 administration of loans and the fund.

2-20 (b) When evaluating an application for financial assistance
 2-21 from a political subdivision, the board shall consider:

2-22 (1) the intended end users of the water supply, the
 2-23 needs of the area to be served by the project, the expected benefit
 2-24 of the project to the area, the relationship of the project to the
 2-25 water needs of this state overall, and the relationship of the
 2-26 project to the state water plan;

2-27 (2) the amount of water expected to be produced by the
 2-28 project; and

2-29 (3) the availability of revenue to the political
 2-30 subdivision or wholesale water provider from all sources for the
 2-31 ultimate repayment of the cost of the project, including all
 2-32 interest.

2-33 (c) The board by resolution may approve an application if,
 2-34 after considering the factors listed in Subsection (b) and other
 2-35 relevant factors, the board finds that:

2-36 (1) the public interest is served by state assistance
 2-37 for the project; and

2-38 (2) the revenue or taxes pledged by the political
 2-39 subdivision or wholesale water provider will be sufficient to meet
 2-40 all the obligations assumed by the political subdivision or
 2-41 wholesale water provider during the succeeding period of not more
 2-42 than 30 years.

2-43 (d) The repayment of principal or interest on a loan made
 2-44 under this subchapter must be deposited to the credit of the Texas
 2-45 water fund.

2-46 (e) An application from a political subdivision or
 2-47 wholesale water provider for financial assistance under this
 2-48 subchapter must comply with the requirements of Section 16.4021.

2-49 (f) Sections 17.183-17.187 apply to the construction of
 2-50 projects funded under this subchapter.

2-51 SECTION 2. Chapter 15, Water Code, is amended by adding
 2-52 Subchapter H-1 to read as follows:

2-53 SUBCHAPTER H-1. TEXAS WATER FUND

2-54 Sec. 15.501. DEFINITION. In this subchapter, "fund" means
 2-55 the Texas water fund.

2-56 Sec. 15.502. FUND. (a) The Texas water fund is a special
 2-57 fund in the state treasury outside the general revenue fund. The
 2-58 fund is administered by the board.

2-59 (b) The board may use the fund only to transfer money to:

2-60 (1) the water assistance fund established under
 2-61 Subchapter B;

2-62 (2) the new water supply for Texas fund established
 2-63 under Subchapter C-1;

2-64 (3) the state water implementation fund for Texas
 2-65 established under Subchapter G;

2-66 (4) the state water implementation revenue fund for
 2-67 Texas established under Subchapter H;

2-68 (5) a revolving fund established under Subchapter J;

2-69 (6) the rural water assistance fund established under

3-1 Subchapter R;
3-2 (7) the Texas Water Development Fund established under
3-3 Subchapter C, Chapter 17; and
3-4 (8) the Texas Water Development Fund II state
3-5 participation account established under Section 17.957.
3-6 (c) The board has legal title to money and investments in
3-7 the fund.
3-8 (d) The comptroller may not use the fund for certification
3-9 under Section 49a, Article III, Texas Constitution.
3-10 (e) Money in the fund may be used only as provided by this
3-11 subchapter.
3-12 (f) The fund consists of:
3-13 (1) money transferred or deposited to the credit of
3-14 the fund by law, including money from any source transferred or
3-15 deposited to the credit of the fund as authorized by law;
3-16 (2) any other revenue that the legislature by statute
3-17 dedicates for deposit to the credit of the fund;
3-18 (3) investment earnings and interest earned on amounts
3-19 credited to the fund;
3-20 (4) money from gifts, grants, or donations to the
3-21 fund; and
3-22 (5) the redeposit of money transferred from the fund.
3-23 Sec. 15.503. MANAGEMENT AND INVESTMENT OF FUND. (a) Money
3-24 in the fund shall be invested as determined by the board. The fund
3-25 may be invested with the state treasury pool.
3-26 (b) The fund and any accounts established in the fund shall
3-27 be kept and maintained by or at the direction of the board.
3-28 (c) The money in the fund may be managed by the comptroller
3-29 or a corporate trustee that is a trust company or a bank that has the
3-30 powers of a trust company for and on behalf of the board and pending
3-31 the money's use for the purposes provided by this subchapter may be
3-32 invested as provided by an order, resolution, or rule of the board.
3-33 (d) If directed by the board to manage the fund under
3-34 Subsection (c), the comptroller or corporate trustee shall manage
3-35 the fund in strict accordance with this subchapter and the orders,
3-36 resolutions, and rules of the board. The board, comptroller, or
3-37 corporate trustee has any power necessary to accomplish the
3-38 purposes of managing and investing the assets of the fund. In
3-39 managing the assets of the fund, through procedures and subject to
3-40 restrictions the board, comptroller, or corporate trustee
3-41 considers appropriate, the board, comptroller, or corporate
3-42 trustee may acquire, exchange, sell, supervise, manage, or retain
3-43 any kind of investment that a prudent investor, exercising
3-44 reasonable care, skill, and caution, would acquire or retain in
3-45 light of the purposes, terms, distribution requirements, and other
3-46 circumstances of the fund then prevailing, taking into
3-47 consideration the investment of all the assets of the fund rather
3-48 than a single investment.
3-49 Sec. 15.504. USE OF FUND. (a) Subject to legislative
3-50 appropriation, the board may make transfers from the fund to a fund
3-51 or account described by Section 15.502(b) for an authorized purpose
3-52 of the receiving fund or account.
3-53 (b) The board may not transfer money to a fund or account
3-54 described by Section 15.502(b) until the application for the
3-55 project for which the money is to be used has been approved.
3-56 (c) The board shall ensure that a portion of the money
3-57 transferred from the fund is used for:
3-58 (1) water infrastructure projects to prevent or repair
3-59 water main failure, prioritized by risk or need, for:
3-60 (A) rural political subdivisions, as defined by
3-61 Section 15.992; and
3-62 (B) municipalities with a population of less than
3-63 150,000;
3-64 (2) projects for which all required state or federal
3-65 permitting has been completed;
3-66 (3) the statewide water conservation public awareness
3-67 program established under Section 16.401; and
3-68 (4) water conservation strategies for new residential
3-69 construction.

4-1 (d) Money transferred from the fund for the purposes
 4-2 described by Subsection (c) may be transferred to funds or accounts
 4-3 described by Section 15.502(b) to be used to provide low interest
 4-4 loans, zero interest loans, negative interest loans, loan
 4-5 forgiveness, or grants for any purpose described by Subsection (c)
 4-6 under criteria developed by the board.

4-7 (e) Money deposited to the credit of the fund as provided by
 4-8 Section 15.154(d) may be used only for the purposes described by
 4-9 Section 15.153(b).

4-10 Sec. 15.505. ADVISORY COMMITTEE. The State Water
 4-11 Implementation Fund for Texas Advisory Committee established under
 4-12 Section 15.438:

4-13 (1) shall submit comments and recommendations to the
 4-14 board regarding the use of money in the fund for use by the board in
 4-15 adopting rules under Section 15.506;

4-16 (2) shall review the overall operation, function, and
 4-17 structure of the fund at least annually and may provide comments and
 4-18 recommendations to the board on any matter; and

4-19 (3) may adopt rules, procedures, and policies as
 4-20 needed to administer this section and implement its
 4-21 responsibilities.

4-22 Sec. 15.506. RULES. (a) The board may adopt rules
 4-23 providing for the use of money in the fund that are consistent with
 4-24 this subchapter.

4-25 (b) Rules adopted under this section must require each
 4-26 recipient of financial assistance administered through the fund to
 4-27 submit to the board a water conservation plan consistent with the
 4-28 requirements of Section 16.4021.

4-29 SECTION 3. Section 15.994(c), Water Code, is amended to
 4-30 read as follows:

4-31 (c) The board may use money in the fund to contract for
 4-32 outreach, financial, planning, and technical assistance to assist
 4-33 rural political subdivisions [~~in obtaining and using financing from~~
 4-34 ~~any source~~] for a purpose described by this section, including in
 4-35 obtaining and using financing from funds and accounts administered
 4-36 by the board.

4-37 SECTION 4. Section 16.0121, Water Code, is amended by
 4-38 adding Subsections (k) and (l) to read as follows:

4-39 (k) The board by rule shall establish a program to provide
 4-40 technical assistance to retail public utilities in conducting water
 4-41 audits required under Subsections (b) and (b-1) and in applying for
 4-42 financial assistance from the board to mitigate the utility
 4-43 system's water loss. The board may provide for the implementation
 4-44 of the program established under this subsection by contracting or
 4-45 partnering with other entities. Rules adopted under this section
 4-46 must provide for the prioritization of technical assistance to
 4-47 retail public utilities based on:

4-48 (1) water loss audits submitted to the board;

4-49 (2) the population served by the utility; and

4-50 (3) the integrity of the utility's system.

4-51 (l) The board shall post on the board's Internet website
 4-52 information that:

4-53 (1) summarizes the information compiled under
 4-54 Subsection (f);

4-55 (2) summarizes the measures taken by retail public
 4-56 utilities to reduce water loss; and

4-57 (3) identifies the retail public utilities
 4-58 participating in the program established under Subsection (k) and
 4-59 details the use of financial assistance provided under that
 4-60 subsection.

4-61 SECTION 5. Section 16.4021(b), Water Code, is amended to
 4-62 read as follows:

4-63 (b) This section applies to an application for financial
 4-64 assistance under:

4-65 (1) Subchapters C, C-1, D, E, G, H, J, O, Q, and R,
 4-66 Chapter 15;

4-67 (2) Subchapters E and F of this chapter; and

4-68 (3) Subchapters D, F, I, K, and L, Chapter 17.

4-69 SECTION 6. Not later than January 1, 2024, the Texas Water

5-1 Development Board shall adopt rules as required by Section
5-2 [16.0121\(k\)](#), Water Code, as added by this Act.

5-3 SECTION 7. (a) Except as otherwise provided by this Act,
5-4 this Act takes effect September 1, 2023.

5-5 (b) Section 2 of this Act takes effect January 1, 2024, but
5-6 only if the constitutional amendment proposed by the 88th
5-7 Legislature, Regular Session, 2023, creating the Texas water fund
5-8 to assist in financing water projects in this state is approved by
5-9 the voters. If that constitutional amendment is not approved by
5-10 the voters, Section 2 of this Act has no effect.

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