

WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE C. WATER DEVELOPMENT

CHAPTER 15. TEXAS WATER ASSISTANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 15.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Executive director" means the executive director of the Texas Natural Resource Conservation Commission.

(5) "Political subdivision" means a city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, any other political subdivision of the state, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 67.

(6) "Project" means:

(A) any undertaking or work, including planning activities and work to obtain regulatory authority at the local, state, and federal level, to conserve, convey, and develop water resources in the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide nonstructural and structural flood control, drainage, subsidence control, recharge, chloride control, brush control, precipitation enhancement, and desalinization, to provide for the acquisition of water rights and the repair of unsafe dams, and to carry out other purposes defined by board rules;

(B) any undertaking or work outside the state to provide for the maintenance and enhancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine; or

(C) any undertaking or work by Texas political

subdivisions or institutions of higher education to conserve, convey, and develop water resources in areas outside Texas or to provide for the maintenance and enhancement of the quality of the water in areas adjoining Texas, if such undertaking or work will result in water being available for use in or for the benefit of Texas or will maintain and enhance the quality of water in Texas.

(7) "Fund" means the water assistance fund.

(8) "Loan fund" means the water loan assistance fund.

(9) "Conservation" means:

(A) the development of water resources; and

(B) those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

(10) "Federal agency" means any federal agency, including the United States Secretary of State, that may act or that is acting through the American Commissioner on the International Boundary and Water Commission, United States and Mexico.

(11) "Economically distressed area" means:

(A) an area in which water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules and in which financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; or

(B) for purposes of any federal funds for colonias deposited in the water assistance fund, an area that meets the federal criteria for use of such funds.

(12) "Nonborder colonia" means a residential community:

(A) located in an unincorporated area of a county all parts of which are at least 150 miles from the international border of this state;

(B) in which water or wastewater services are inadequate to meet minimal needs of residential users as defined by board rules;

(C) in which the average household income is less

than the average household income for the county in which the community is located; and

(D) that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(13) "Regionalization" means development of a water supply or wastewater collection and treatment system that incorporates multiple service areas into an areawide service facility or any such system that serves an area that includes more than a single county, city, special district, or other political subdivision of the state.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 1.06; Acts 1985, 69th Leg., ch. 133, Sec. 2.01; Acts 1985, 69th Leg., ch. 795, Sec. 1.038, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 821, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 977, Sec. 8, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.059, eff. Aug. 12, 1991; Acts 1993, 73rd Leg., ch. 844, Sec. 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1010, Sec. 4.07, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.54, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 966, Sec. 4.04, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 11.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(141), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 14, eff. June 15, 2007.

Sec. 15.002. PURPOSE. (a) The legislature finds that it is in the public interest and to the benefit of the general public of the state to encourage and to assist in the planning and construction of projects to develop and conserve the storm water and floodwater as well as the ordinary flows of the rivers and streams of the state, to maintain and enhance the quality of the water of the state, to provide protection to the state's citizens from the floodwater of the rivers and streams of the state, to provide drainage, subsidence control, public beach nourishment,

recharge, chloride control, brush control, weather modification, regionalization, and desalination, to provide for the management of aquatic vegetation, and other purposes as provided by law or board rule.

(b) The legislature finds that the conventional means of financing projects are inadequate to meet current and anticipated needs of the state. Therefore, it is the further intent of the legislature to provide a means of coordinating the development of projects through the board and to provide political subdivisions the maximum opportunity to finance projects through programs provided by this chapter. Projects may be in the state or outside the state, provided that out-of-state projects must be funded through a Texas political subdivision or an institution of higher education and must result in water being available for use in or for the benefit of Texas or maintain and enhance the quality of water in Texas.

(c) The legislature finds that serious health and sanitation problems face the citizens of this state from discharges of untreated and treated waste water into the Rio Grande. It is the intent of the legislature to provide a means of coordinating and financing the development of waste water treatment projects through cooperative efforts between this state, the United States, and the Republic of Mexico to improve the quality of water being discharged into the Rio Grande.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.02; Acts 1989, 71st Leg., ch. 624, Sec. 2.02, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 295, Sec. 41, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1010, Sec. 4.08, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1461, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 966, Sec. 4.05, eff. Sept. 1, 2001.

Sec. 15.003. POWER TO DEFINE PURPOSES. The board, by rule, may define in greater detail the purposes enumerated in Section [15.002](#).

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.004. TRANSBASIN DIVERSION. Money on deposit in a fund created under Article III, Section 49-d-3, of the Texas Constitution shall not be used to finance or in aid of any project under this chapter that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.03.

Sec. 15.005. CONSIDERATION OF CERTAIN APPLICATIONS. (a) On submission of a project application under this chapter, the executive administrator shall determine if the application includes a project that will have flood control as one of its purposes and if the political subdivision submitting the application includes all of the watershed in which the project is to be located.

(b) If the executive administrator finds that the application includes a project that has flood control as one of its purposes and that the watershed in which the project is located is partially located outside the political subdivision making the application, the executive administrator shall require the applicant to submit a written memorandum of understanding relating to the management of the watershed in which the project is to be located.

(c) The memorandum of understanding must be approved by all governing bodies of political subdivisions located in the watershed in which the project is to be located and must be signed by the presiding officers of each of those political subdivisions.

(d) The board shall not consider any application for which a memorandum of understanding must be filed under this section until that memorandum of understanding is filed with the executive administrator.

(e) The board shall adopt rules for carrying out this section.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.039, eff. Sept. 1, 1985; Acts 2003, 78th Leg., ch. 1057, Sec. 2, eff. June 20, 2003.

Sec. 15.006. OPEN MEETINGS AND OPEN RECORDS LAWS. Nonprofit water supply corporations which receive any assistance under this chapter are subject to Chapter 551, Government Code, and to Chapter 552, Government Code.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.18. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(78), (90), eff. Sept. 1, 1995.

Sec. 15.007. CONSIDERATIONS FOR CERTAIN FINANCIAL ASSISTANCE. (a) If financial assistance is provided under Subchapter C or J of this chapter, any waste treatment facility to be financed under the application must consider cost-effective methods of treatment such as rock reed, root zone, ponding, irrigation, or other nonconventional methods that may have been developed by the National Aeronautics and Space Administration or the Tennessee Valley Authority.

(b) Before granting an application for financial assistance under Subchapter C or J of this chapter, the board must find that any waste treatment facility to be financed under the application will consider cost-effective innovative methods of treatment such as rock reed, root zone, ponding, irrigation, or other nonconventional methods that may have been developed by the National Aeronautics and Space Administration or the Tennessee Valley Authority.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.03, eff. Sept. 1, 1989.

Sec. 15.008. GRANT STANDARDS. The law regarding uniform grants and contract management, Chapter 783, Government Code, does not apply to a contract under Subchapter F, H, K, or P, or to a contract relating to an economically distressed area or nonborder colonia under Subchapter C.

Added by Acts 1991, 72nd Leg., ch. 422, Sec. 4, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 13, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 11.02, eff. Sept. 1, 2001.

SUBCHAPTER B. WATER ASSISTANCE FUND

Sec. 15.011. WATER ASSISTANCE FUND. (a) The water assistance fund is created and shall be administered by the board under this chapter and rules adopted by the board.

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C, the storage acquisition fund created under Subchapter E, the research and planning fund created under Subchapter F, the hydrographic survey account created under Subchapter M, provided the hydrographic survey account transfer does not exceed \$425,000, the aquatic vegetation management fund created under Subchapter N, the rural community water and wastewater loan fund created under Subchapter O, the colonia self-help account created under Subchapter P, and the rural water assistance fund created under Subchapter R.

(c) The board may transfer money in the fund to the water bank account to be used by the board for administration and operation of the Texas Water Bank.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1990, 71st Leg., 5th C.S., ch. 3, Sec. 2, eff. June 14, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.060, eff. Aug. 12, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 10.07, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 477, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 647, Sec. 3, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1461, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 966, Sec. 4.06, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1234, Sec. 14, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 18.002, eff. Sept. 1, 2003.

Sec. 15.012. MANAGEMENT OF FUND. (a) The board may invest,

reinvest, and direct the investment of money accumulated in the fund.

(b) Money appropriated by the legislature to the fund shall be deposited in this fund. Gifts or grants from the United States government, local or regional governments, private sources, or other sources may be deposited in this fund.

(c) Money appropriated to the fund by the legislature for a specific purpose stated in Subchapter C, E, F, M, N, O, or P of this chapter shall be placed in the appropriate fund or account created by that subchapter.

(d) The money held in the fund may be invested as provided by law for investment of money under Section 404.024, Government Code. Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1990, 71st Leg., 5th C.S., ch. 3, Sec. 3, eff. June 14, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.061, eff. Aug. 12, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 10.08, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 477, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 844, Sec. 3, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1461, Sec. 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1234, Sec. 15, eff. Sept. 1, 2001.

SUBCHAPTER C. WATER LOAN ASSISTANCE PROGRAM

Sec. 15.101. WATER LOAN ASSISTANCE FUND. (a) The water loan assistance fund is created, to be funded by direct appropriation and by the board at its discretion from the fund.

(b) Repayments of loans shall be deposited in the water assistance fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04.

Sec. 15.102. FINANCIAL ASSISTANCE. (a) The loan fund may be used by the board to provide loans of financial assistance to political subdivisions, federal agencies, or both political subdivisions and federal agencies acting jointly for the construction, acquisition, improvement, or enlargement of projects

involving water conservation, water development, or water quality enhancement, providing nonstructural and structural flood control, or drainage, project recreation lands and revenue-generating recreational improvements within any watershed, or providing recharge, chloride control, subsidence control, brush control, weather modification, regionalization, or desalination as provided by legislative appropriations, this chapter, and the board rules.

(b) The loan fund may also be used by the board to provide:

(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

(A) projects for which federal grant funds are placed in the loan fund;

(B) projects, on specific legislative appropriation for those projects; or

(C) water conservation, desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

(c) A political subdivision may enter into an agreement with a federal agency to submit a joint application for financial assistance under this subchapter. Before the board may grant financial assistance under a joint application, the board must find that the project is designed to produce effluent that will meet federal and state approved water quality standards.

(d) A grant or loan of financial assistance under a joint application by the federal government and a political subdivision may be made only for a project that is covered by an international contract or treaty to which the United States government is a party, and a grant or loan made under such a joint application is subject to the provisions, terms, and conditions of the international contract or treaty to which the United States government is a party. Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04;

Acts 1987, 70th Leg., ch. 977, Sec. 9, eff. June 19, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 2, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.04, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 966, Sec. 4.07, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1234, Sec. 16, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 11.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 18.003, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 7, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.10, eff. September 1, 2007.

Sec. 15.103. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance from the loan fund, the applicant shall include:

(1) the name of each political subdivision or federal agency and its principal officers;

(2) a citation of the law under which each political subdivision or federal agency operates and was created;

(3) the total cost of the project;

(4) the amount of state financial assistance requested;

(5) the plan for repaying the total cost of the project; and

(6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the loan fund unless it is submitted in affidavit form by the officials of the political subdivision or the chief administrator of the federal agency or both these officers and the chief administrator under a joint application. The board shall prescribe the affidavit form in its rules.

(c) The rules shall not restrict or prohibit the board from requiring additional factual material from an applicant.

(d) If an applicant has a program of water conservation, he

shall state in his application that he has such a program and shall describe that program in the manner required by board rules.

(e) If the applicant claims an exemption under Subsection (c), Section 15.106 of this code, he shall state the exemption in his application and provide information relating to the exemption as required by board rules.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 1.05, 2.04; Acts 1987, 70th Leg., ch. 977, Sec. 9, eff. June 19, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.05, eff. Sept. 1, 1989.

Sec. 15.104. FINDINGS REGARDING PERMITS. (a) The board shall not release funds for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the project will provide.

(b) The board may release funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for a waste water treatment plant, the board may not deliver funds for the waste water treatment plant until the applicant has received a permit for construction and operation of the waste water treatment plant and approval of the plans and specifications from the commission. If the applicant proposes a waste water treatment plant that is located outside of the jurisdiction of this state and that is not subject to the permitting authority of the commission, the board

must review the plans and specifications in coordination with the commission and find that the waste water treatment plant is capable of producing effluent that will meet federal and state-approved water quality standards.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04; Acts 1985, 69th Leg., ch. 795, Sec. 1.040, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 246, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 4, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.06, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1234, Sec. 17, eff. Sept. 1, 2001.

Sec. 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. (a) In passing on an application for financial assistance from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the applicant from all sources for the ultimate repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs;

(4) the ability of the applicant to finance the project without state assistance;

(5) for applications for grants or loans for economically distressed areas or nonborder colonias, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services; and

(6) for applications for grants under Section [15.102\(b\)\(2\)](#), the ability of the applicant to construct the project without the grant and the benefits of the project to water and wastewater needs of the state.

(b) The board by rule shall further define eligibility for grants under this subchapter.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04; Acts 1987, 70th Leg., ch. 1103, Sec. 5, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.07, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 966, Sec. 4.08, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 11.04, eff. Sept. 1, 2001.

Sec. 15.106. APPROVAL OF APPLICATION. (a) The board, by resolution, may approve an application for financial assistance if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state participation in the project; and

(2) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

(b) Before the board grants the application or provides any financial assistance under an application, it shall require an applicant to adopt or to have already implemented a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Subdivision (9)(B), Section 15.001, of this code and that the board determines will meet reasonably anticipated local needs and conditions. The program may include but is not limited to any or all of the following:

(1) restrictions on discretionary water uses, such as lawn watering;

(2) plumbing code standards for water conservation in new building construction;

(3) retrofit programs to improve water-use efficiency in existing buildings;

(4) educational programs;

(5) universal metering;

(6) conservation-oriented water rate structures;

(7) drought contingency plans; and

(8) distribution system leak detection and repair.

(b-1) Beginning May 1, 2005, all water conservation plans

required under this section must include specific, quantified 5-year and 10-year targets for water savings. The entity preparing the plan shall establish the targets. Targets must include goals for water loss programs and goals for municipal use in gallons per capita per day.

(c) The board may not require a program of water conservation to be adopted under Subsection (b) of this section if:

(1) an emergency exists as determined by the board;

(2) the amount of financial assistance to be provided is \$500,000 or less;

(3) the applicant demonstrates and the board finds that the submission of such a program is not reasonably necessary to facilitate conservation or conservation measures; or

(4) the project consists of construction outside the jurisdiction of the State of Texas.

(d) To the extent funds are available, the board shall establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation plans required by this section and other sections of this code.

(e) If the political subdivision will utilize the project to furnish water or services to another political subdivision that in turn will furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the political subdivisions providing for establishment of a water conservation plan and other necessary measures.

(f) Rules adopted under this section must state the criteria for preparation, review, and enforcement of an applicant's conservation program.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 1.07; Acts 1987, 70th Leg., ch. 977, Sec. 10, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.08, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 966, Sec. 4.09, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 688, Sec. 2, eff. June 20, 2003.

Sec. 15.107. METHOD OF MAKING FINANCIAL ASSISTANCE AVAILABLE. (a) The board may make financial assistance available to successful applicants in any manner that it considers economically feasible including:

(1) contracts or agreements with a political subdivision for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by the political subdivision;

(2) contracts or agreements with a political subdivision for the purpose of providing the political subdivision's share of any cost-sharing required as a participant in or local sponsor of any federal project;

(3) purchase of the bonds or other obligations of a political subdivision for the purpose of completely or partially financing the project for which the application is being submitted; or

(4) contracts or agreements for the receipt of funds and performance of obligations in relation to any grant of funds provided by the board.

(b) Contracts or agreements entered into under Subdivision (1) of Subsection (a) of this section may cover all or any part of the debt service requirements in a given year and may cover debt service requirements in as many years of an issue as the board considers appropriate.

(c) In a determination on a loan for financial assistance, the board may approve interest deferral or the capitalization of interest costs and may approve periods of repayment for the loans of up to 50 years.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04; Acts 1987, 70th Leg., ch. 1103, Sec. 6, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 966, Sec. 4.10, eff. Sept. 1, 2001.

Sec. 15.1071. SALE OF POLITICAL SUBDIVISION BONDS TO TEXAS WATER RESOURCES FINANCE AUTHORITY. (a) Notwithstanding any other provision of this chapter, the board may sell to the Texas Water Resources Finance Authority any political subdivision bonds

purchased with money in the water loan assistance fund and may apply the proceeds of a sale in the manner provided by this section.

(b) The board shall sell the political subdivision bonds at the price and under the terms that it determines to be reasonable.

(c) The board may sell political subdivision bonds to the Texas Water Resources Finance Authority without making a previous offer to the political subdivisions and without advertising, soliciting, or receiving bids for the sale.

(d) The board may enter into a contract with the Texas Water Resources Finance Authority to sell to the authority political subdivision bonds that are not owned by the board. For bonds sold under this subsection, the contract may provide that the board will receive from the authority the sales price for the political subdivision bonds in exchange for the board's agreement to transfer to the authority political subdivision bonds subsequently acquired by the board and to pay to the authority from the investment income received on the water assistance fund or the water loan assistance fund any amounts considered appropriate including without limitation an amount equal to the proportionate share of that investment income attributable to the money used to purchase the political subdivision bonds.

(e) Proceeds from the sale of bonds under this section shall be deposited in the water assistance fund and used for the purposes and in the manner provided by law.

(f) As part of a sales agreement with the Texas Water Resources Finance Authority, the board by contract may agree to perform the functions required to ensure that the political subdivisions pay the debt service on political subdivision bonds sold and observe the conditions and requirements stated in those bonds.

(g) The board may exercise any powers necessary to carry out the authority granted by this section including the authority to contract with any person to accomplish the purposes of this section.

Added by Acts 1987, 70th Leg., ch. 728, Sec. 3, eff. June 20, 1987.

Sec. 15.108. RECOMMENDATIONS FOR FUNDING BY LEGISLATURE.

(a) If money is not available in the fund to provide money for projects approved under this subchapter, the board shall prepare and submit with its biennial budget request to the Legislative Budget Board and to the presiding officers of each house of the legislature a list of all projects approved by the board under this subchapter.

(b) The list of projects submitted to the Legislative Budget Board and to the presiding officers of each house of the legislature shall include relevant information relating to each project and recommendations relating to the terms under which loans of financial assistance should be made to each applicant and projected amounts of money that will be required each biennium to fund each project to its completion.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.04.

Sec. 15.109. DELIVERY OF LOANS OF FINANCIAL ASSISTANCE.

(a) As money becomes available in the loan fund, the board shall deliver the funds under the approved applications.

(b) The board shall deliver money in the fund that is provided by legislative appropriation in the manner provided by and subject to the restrictions of the legislative appropriation.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.04.

Sec. 15.110. REQUIREMENTS FOR POLITICAL SUBDIVISIONS AND FEDERAL AGENCIES. (a) Subject only to constitutional limitations, all contracting political subdivisions may issue and execute those bonds, notes, or other obligations necessary to conform to and comply with repayment obligations adopted by the board.

(b) Loans of financial assistance under this subchapter shall be repaid to the board, and the payments made to the board for these loans of financial assistance shall be made in compliance with terms and conditions established by the board.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.04; Acts 1989, 71st Leg., ch. 624, Sec. 2.09, 2.10, eff. Sept. 1, 1989.

Sec. 15.111. APPROVAL AND REGISTRATION. The board shall

not contract for the payment of the principal of or interest on or both the principal of and interest on any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.

Formerly Sec. 15.108, added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Renumbered by Acts 1985, 69th Leg., ch. 133, Sec. 2.04.

Sec. 15.112. CONTRACTS INCONTESTABLE. Contracts entered into by the board for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

(1) approval of the bonds or other obligations by the attorney general;

(2) registration of the bonds or other obligations by the comptroller; and

(3) purchase by and delivery of the bonds or other obligations to the purchaser.

Formerly Sec. 15.109, added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Renumbered by Acts 1985, 69th Leg., ch. 133, Sec. 2.04.

Sec. 15.113. INSPECTION OF PROJECTS. (a) The board may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability.

Formerly Sec. 15.110, added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.040, eff. Sept. 1, 1985. Renumbered by Acts 1985, 69th Leg., ch. 133, Sec. 2.04. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 11, eff. June 19, 1987.

Sec. 15.114. ALTERATION OF PLANS. After approval of engineering plans, a political subdivision or federal agency shall not make any substantial or material alteration in the plans unless the executive administrator authorizes the alteration. For a waste water treatment plant or other facility required to have commission approval of plans and specifications, the commission must give its approval before a substantial or material alteration is made in those plans.

Formerly Sec. 15.111, added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.040, eff. Sept. 1, 1985. Renumbered by Acts 1985, 69th Leg., ch. 133, Sec. 2.04. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 12, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.11, eff. Sept. 1, 1989.

Sec. 15.115. CERTIFICATE OF APPROVAL. The executive administrator may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to the approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

Formerly Sec. 15.112, added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.040, eff. Sept. 1, 1985. Renumbered by Acts 1985, 69th Leg., ch. 133, Sec. 2.04. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 12, eff. June 19, 1987.

Sec. 15.116. SALE OF BONDS BY THE BOARD. The board may sell or dispose of bonds or other obligations purchased with money in the water loan assistance fund.

Added by Acts 1987, 70th Leg., ch. 1103, Sec. 7, eff. Sept. 1, 1987.

SUBCHAPTER D. WATER BOND INSURANCE PROGRAM

Sec. 15.201. DEFINITIONS. (a) In this subchapter:

(1) "Program" means the water bond insurance program.

(2) "Bonds" means bonds or other obligations of a political subdivision or water supply corporation issued to provide funds for a project defined in Subsection (b) of this section.

(3) "Insured bonds" means bonds or other obligations insured by the state under this subchapter.

(4) "Issuer" means a political subdivision or water supply corporation issuing bonds or other obligations eligible to be insured under the program.

(5) "Water supply corporation" means a nonprofit water supply corporation created and operating under Chapter 67.

(b) Notwithstanding the definition in Subdivision (6), Section 15.001, of this code, in this subchapter, "project" means any undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide for flood control and drainage, to provide recharge or chloride control, or to provide for desalinization, and to carry out other purposes defined by board rules.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1991, 72nd Leg., ch. 516, Sec. 2, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 62, Sec. 18.55, eff. Sept. 1, 1999.

Sec. 15.202. CREATION AND ADMINISTRATION OF PROGRAM. (a) The water bond insurance program is created pursuant to Article III, Section 49-d-4, of the Texas Constitution to insure to holders of insured bonds that in the event of default or impending default the state will pay, to the extent authorized by this subchapter, the principal of or interest on or both principal of and interest on the bonds.

(b) The board shall administer the program in the manner provided by this subchapter and by rules of the board.

(c) The legislature, in accordance with authorization provided by Article III, Section 49-d-4, of the Texas Constitution, authorizes the existence of the program to continue beyond the expiration date of the program provided by Subsection (g) of that section.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1991, 72nd Leg., ch. 52, Sec. 2, eff. May 1, 1991.

Sec. 15.203. ELIGIBLE BONDS. (a) Only revenue, general obligation, tax, or combination bonds issued by a political subdivision or a water supply corporation for a project qualifying for assistance under this subchapter and board rules are eligible to be insured under the program.

(b) Bonds issued for a term longer than 50 years are not eligible to be insured under the program.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.204. RULES. The board shall adopt necessary rules to carry out this subchapter.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.205. INSURANCE. The board may pledge the general credit of the state, to the extent authorized by Article III, Section [49-d-4](#), of the Texas Constitution, to insure the payment of the principal of or interest on or both the principal of and interest on eligible bonds issued by an issuer in the event of default or impending default of the insured bonds.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.206. APPLICATION FOR INSURANCE. (a) An issuer may apply in writing to the board for the insurance of its bonds.

- (b) The application must include the following information:
- (1) the name of the issuer;
 - (2) citations of the laws under which the issuer is created and operates and under which the bonds to be insured are to be issued;
 - (3) the total amount of bonds for which insurance coverage is sought and the anticipated interest rate on the bonds;
 - (4) the term for which the bonds are to be issued;
 - (5) the purpose or purposes for which the bonds are to be issued;
 - (6) financial information relating to the issuance of

the bonds and to the financial stability and future of the issuer;
and

(7) any other information the board requires by its rules or otherwise considers necessary in making a determination of the application.

(c) The board by rule shall prescribe the form and procedure for submitting and processing an application.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.207. CONSIDERATIONS IN PASSING ON APPLICATION. In addition to criteria established in its rules, the board in passing on an application shall consider:

(1) the purpose or purposes for which the issuer is issuing the bonds;

(2) the financial ability of the issuer to meet its obligations under the bonds;

(3) the risk to the State of Texas in insuring the bonds and the ability of the state to pay the insurance coverage;
and

(4) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring similar state assistance and the benefits of those projects to other areas.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.208. APPROVAL OF APPLICATION. (a) After notice and hearing, the board by resolution may approve an application if, after considering the information in the application and presented at the hearing, criteria established by this subchapter, and the rules and other relevant factors, the board finds:

(1) that the bonds are being issued to finance a project that serves the public interest;

(2) that there is strong evidence and a high degree of certainty that the issuer will be able to meet its obligations under the bonds; and

(3) that an applicant proposing surface water development has the necessary water right authorizing it to

appropriate and use the water which the project will provide.

(b) If the board finds that an applicant is not using water efficiently, the board may require the applicant to develop a conservation program to provide for more efficient use of water.

(c) The board may establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation programs required by this section and other sections of this code.

(d) If the issuer plans to utilize the project to furnish water or services to a political subdivision that in turn plans to furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the issuer and the political subdivision providing for establishment of a water conservation program and other necessary measures.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.209. CONTRACTS, AGREEMENTS, AND OTHER DOCUMENTS.

(a) On approval of an application, the board shall enter into a contract with the issuer for the insurance of the bonds on terms and conditions agreed to by the parties. The terms and conditions must comply with this subchapter and rules adopted by the board.

(b) The insurance contract shall include:

(1) the extent of the insurance coverage;

(2) the terms and conditions of the insurance coverage;

(3) rights in addition to those provided by law reserved by the board against the issuer in the event the board must pay all or part of the insurance coverage; and

(4) any other provision required in order to be in compliance with the board's rules.

(c) The board shall execute any other documents necessary to legally bind the state to insure payment to the bondholders on default or impending default.

(d) For the insurance coverage of bonds to be effective, it must be approved by the attorney general as to the legality of the insurance coverage. Documents relating to the insurance of the

bonds shall be submitted to the attorney general for approval at the same time as the bonds and records relating to the issuance of the bonds are submitted for approval. The bonds issued by a political subdivision or water supply corporation and the insurance coverage approved by the board are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) payment by and delivery to the buyer.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.210. LIMITATION ON INSURANCE COVERAGE. (a) Except as provided by Subsection (c) of this section, the total principal balance of all insurance coverage issued by the board and outstanding may not exceed the dollar amount that equals two times the maximum amount of money that the state is authorized to pay under the program by the constitution.

(b) The board may not approve insurance coverage in any state fiscal year that exceeds a total of \$100 million for all applicants.

(c) The legislature, by a two-thirds vote of each house, may change the limitations provided by Subsections (a) and (b) of this section.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.211. INSURANCE FEES. (a) The board shall adopt a schedule of fees to be charged an issuer for insurance coverage provided under this subchapter.

(b) Fees charged by the board under this section shall be calculated to provide a reasonable reserve against defaults and impending defaults.

(c) Fees collected under this section shall be deposited in a special reserve fund created in the state treasury for the purpose of paying amounts on default or impending default of any bonds without resorting to the general credit of the state. The board may invest any money credited to the reserve fund in investments authorized by law for state deposits.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts

1987, 70th Leg., ch. 1103, Sec. 8, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 308, Sec. 1, eff. June 14, 1989.

Sec. 15.212. PAYMENT BY STATE. (a) On receipt by the executive administrator from the paying agent for any insured bond of a written notice by registered or certified mail that a payment on the bond is due but has not been made to the paying agent by the issuer and that the issuer's reserves are insufficient to cover the payment, the executive administrator shall have a deposit of funds made with the paying agent sufficient to cover the payment due on the bond less any amount already held by the paying agent to pay the principal of and interest on the bond.

(b) On transfer of the payment to the paying agent under Subsection (a) of this section and on receipt of the uncanceled bond or coupon, the state becomes the owner of the bond or coupon and is subrogated to the rights of the bondholder with respect to the amount paid by the state.

(c) After making payment on the bonds under Subsection (a) of this section, the board shall attempt to collect from the issuer the amount paid by the state. The board may enter into agreements for the issuer to pay those claims, may enforce any provisions of the bonds relating to actions that may be taken by bondholders on default, or may sue the issuer to collect amounts paid by the state. The attorney general, at the request of the board, shall take all necessary legal action to assist the board in carrying out this subsection.

(d) Money collected under Subsection (c) of this section shall be deposited in the special reserve fund up to the amount used from that fund to pay the defaulted bonds. Any remaining money collected and not deposited in that fund shall be deposited in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 13, eff. June 19, 1987.

Sec. 15.213. REFUNDING BONDS. Without the express written consent of the board, insurance provided by the board under this subchapter shall not extend to refunding bonds issued to replace

bonds that have been insured by the board. The board may give its consent under procedures provided by its rules.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05.

Sec. 15.214. INSPECTION OF PROJECTS. (a) The board may inspect at any time the construction of a project being constructed with proceeds of revenue bonds insured by the board to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.215. ALTERATION OF PLANS. After approval of engineering plans, a political subdivision or water supply corporation may not make any substantial or material alteration in the plans unless the executive administrator authorizes the alteration.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.216. CERTIFICATE OF APPROVAL. The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans;

(2) failure to construct the project in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.217. OPEN RECORDS AND OPEN MEETINGS LAWS. Water supply corporations receiving any assistance under this Act are

subject to Chapter 552, Government Code, and Chapter 551, Government Code.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(78), (90), eff. Sept. 1, 1995.

Sec. 15.218. REPORT. (a) Not later than January 1 of each odd-numbered year, the board shall prepare and submit to the governor, lieutenant governor, and speaker of the house a report relating to the financial impact of the bond insurance program during the immediately preceding biennium.

(b) The report shall include:

(1) the total amount of insurance coverage authorized by the board during the biennium;

(2) the number of insurance coverage authorizations granted by the board;

(3) a list of the issuers receiving insurance coverage from the board during the biennium and the amount of insurance coverage provided to each issuer;

(4) an analysis of the marketability of the bonds of the issuers receiving insurance coverage during the biennium and the effect that the insurance coverage had on interest rates and bond ratings for those issuers;

(5) an analysis of the marketability of bonds issued by the state and its agencies during the biennium and the effect that the bond insurance program had on interest rates on state bonds and the state's bond rating;

(6) an analysis of the impact on the commercial bond market and bond interest rates generally during the biennium as a result of the implementation of the bond insurance program with particular emphasis on the impact on bonds of political subdivisions and water supply corporations that did not participate in the program;

(7) recommendations for changes in the bond issuance program that will favorably affect marketability of state bonds and issuer's bonds, bond ratings, and interest rates; and

(8) any other information, analyses, and recommendations that the board considers necessary to give the

governor and the legislature a complete understanding of the financial impact of the bond insurance program.

(c) The state comptroller on request shall provide to the board all information and assistance necessary for the board to prepare this report.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.05. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987; Acts 1997, 75th Leg., ch. 1423, Sec. 20.02, eff. Sept. 1, 1997.

SUBCHAPTER E. STORAGE ACQUISITION PROGRAM

Sec. 15.301. FUND CREATED. There is created a fund in the state treasury to be known as the storage acquisition fund which is to be funded by direct appropriations and by transfers from the fund at the discretion of the board.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.06.

Sec. 15.302. AUTHORIZED PROJECTS. (a) The board may use the storage acquisition fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of any existing or proposed water storage project.

(b) In addition, the board may, at its discretion and in accordance with its rules, contract with a political subdivision, under terms and conditions established by the board, to pay the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.303. JOINT VENTURES. The board may act singly or in a joint venture in partnership with any political subdivision, with the United States, or with any other state to the extent permitted by law.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff.

Nov. 10, 1981.

Sec. 15.304. PERMITS REQUIRED. Except as provided by Section 15.3041 of this code, the board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 4.03.

Sec. 15.3041. RESERVATION AND APPROPRIATION FOR BAYS AND ESTUARIES AND INSTREAM USES. (a) Five percent of the annual firm yield of water in any reservoir and associated works constructed with state financial participation under this chapter within 200 river miles from the coast, to commence from the mouth of the river thence inland, is appropriated to the Parks and Wildlife Department for use to make releases to bays and estuaries and for instream uses, and the commission shall issue permits for this water to the Parks and Wildlife Department under procedures adopted by the commission.

(b) The Parks and Wildlife Department in cooperation with the department shall manage this water for the purposes stated in this section.

(c) The Parks and Wildlife Department shall adopt necessary rules and shall enter into necessary memoranda of understanding with the department to provide necessary rules and procedures for managing the water and for release of the water for the purposes stated in this section.

(d) This section does not limit or repeal any other authority of or law relating to the department or the commission.

(e) Operating and maintenance costs for the percentage of annual firm yield appropriated to the Parks and Wildlife Department shall be paid by the local political subdivisions that are the project owners.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 4.03.

Sec. 15.305. STORING WATER. The board may use any reservoir

acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.306. BOARD FINDINGS. Before the board may acquire storage facilities in any reservoir, the board shall find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facilities;

(2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;

(3) the public interest will be served by acquisition of the facilities; and

(4) the facilities to be constructed or reconstructed contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.3061. RECOMMENDATIONS FOR FUNDING BY LEGISLATURE.

(a) If money is not available in the fund to provide money for projects approved under this subchapter, the board shall prepare and submit with its biennial budget request to the Legislative Budget Board and to the presiding officers of each house of the legislature a list of all projects approved by the board under this subchapter.

(b) The list of projects submitted to the Legislative Budget Board and to the presiding officers of each house of the legislature shall include relevant information relating to each project and recommendations relating to the priorities for funding.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.06.

Sec. 15.307. FACILITIES WANTED BY POLITICAL SUBDIVISION.

The board shall not acquire any facility to the extent that the board finds that the political subdivision:

(1) is willing and reasonably able to finance the acquisition of the facility;

(2) has qualified by obtaining the necessary permit;
and

(3) has proposals that are inconsistent with the objectives of the state water plan.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.308. CONTRACTS: GENERAL AUTHORITY. (a) The board may execute contracts which include but are not limited to the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed storage project.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.309. SPECIFIC CONTRACTS AUTHORIZED. Contracts authorized by Section 15.308 of this code include but are not limited to the following:

(1) federal grants or grants from other sources;

(2) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;

(3) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or

portion of the project; and

(4) contracts secured by the pledge of all or any part of funds in the storage acquisition fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.310. CONTRACTS: FACILITIES ACQUIRED FOR A TERM OF YEARS. If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.311. MAINTENANCE CONTRACTS. The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.312. RECREATIONAL FACILITIES. The board may execute contracts with the United States and with state agencies and political subdivisions and with others to the extent authorized for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts shall be deposited in the water assistance fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.313. BOARD MAY SELL OR LEASE PROJECTS. (a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the storage acquisition fund.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.314. PERMIT REQUIRED. Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.315. CONTRACT MUST BE NEGOTIATED. The commission may issue a term permit until the applicant has executed a contract with the board for acquisition of the facilities.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.316. RESERVOIR LAND. The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.317. PRICE OF SALE. (a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the disbursement of funds to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The purchaser of the board's interest in a state

facility shall also assume, to the extent disclosed by the board at or before the sale, any and all direct, conditional, or contingent liabilities of the board attributed to the project in direct relation to the percentage of the project acquired by the purchaser.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.318. PRICE OF SALE: FACILITIES ACQUIRED UNDER CONTRACTS WITH THE UNITED STATES. (a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition, by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of disbursement of the money to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) of this section, as applicable, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.319. COSTS DEFINED. With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid plus the amounts the board has agreed to pay under obligations not transferred to the purchaser for a

facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility. Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.320. LEASE PAYMENTS. In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

(1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and

(2) the state's annual cost for operation, maintenance, and rehabilitation of the facility.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.321. SALE OR LEASE: CONDITION PRECEDENT. (a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

(1) that the applicant has a permit granted by the commission;

(2) that the sale, transfer, or lease serves the public interest; and

(3) that the consideration for the sale, transfer, or lease is fair, just, reasonable, and in full compliance with the law.

(b) The consideration for a sale or transfer may be either money or revenue bonds which for the purposes of this section shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by Sections 15.317-15.318 of this code, or if revenue bonds constitute the consideration, the principal amount of revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Sections 15.317-15.318 of this code, and the revenue bonds shall bear interest at the rate prescribed in Section 17.128 of this code

with regard to bonds purchased with the proceeds of the Texas water development fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.322. DISPOSITION OF PROCEEDS. (a) The money received from any sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be placed in the general revenue fund.

(b) If money received from a sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, if the money received as matured interest or principal on the bonds, is money derived originally from the appropriation made in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on that money, the money received as matured interest or principal on the bonds shall be placed in a special account in the water assistance fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.06.

Sec. 15.323. SALE OF STORED WATER. (a) The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price shall be determined by the board.

(b) Except as provided by Subsection (c) of this section, money received from any sale shall be placed in the general revenue fund.

(c) Money received from a sale of unappropriated public water or other water acquired by the state and stored by it or for it in a facility for which funds were provided from the appropriation made in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on the money constituting that appropriation, must be deposited in a special account in the water assistance fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.06.

Sec. 15.324. SALE CONTRACT: PROVISIONS, LIMITATIONS. (a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required by Section 15.321 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivisions in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.325. EMERGENCY RELEASES OF WATER. (a) All water owned by the board in any facility may be released at the discretion of the board, with or without charge, to relieve any emergency condition arising from drought, public calamity, or any other reason causing a severe water shortage, if the commission first determines the existence of the emergency and requests the board to release water to alleviate the emergency condition.

(b) The executive administrator may authorize the release of water owned by the state from any facility in which the state has an interest under this subchapter for a period of not to exceed 72 hours from time of authorization to relieve an emergency condition that poses an imminent threat of flooding. The commission must approve any release of water that must be made beyond the 72-hour period provided by this subsection.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.041, eff. Sept. 1, 1985.

Sec. 15.326. PREFERENCES. The board shall give political

subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 of this code. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.327. LEASE OF LAND PRIOR TO PROJECT CONSTRUCTION. The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall provide for expiration before initiation of project construction. The money received from such leases shall be placed in the water assistance fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.328. LEASE CONTRIBUTION EQUIVALENT TO TAXES. The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.329. INSPECTION OF PROJECTS. (a) The board may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff.

Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.042, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.330. ALTERATION OF PLANS. After approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive administrator authorizes the alteration. For a waste water treatment plant or other facility required to have commission approval of the plans and specifications, the commission must give its approval before a substantial or material alteration is made in those plans.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.042, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

Sec. 15.331. CERTIFICATE OF APPROVAL. The executive administrator may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.042, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 977, Sec. 14, eff. June 19, 1987.

SUBCHAPTER F. RESEARCH AND PLANNING PROGRAM

Sec. 15.401. PROGRAM CREATION. The research and planning program is created to provide money for research into and planning of the proper conservation, management, and development of the state's water resources, for regional planning by political subdivisions, for facility engineering in economically distressed

areas, and for flood control planning by political subdivisions. The program may also provide money for research and planning by Texas political subdivisions related to the proper conservation, management, and development of water resources of areas outside Texas if such research or planning will result in water being available for use in or for the benefit of Texas or will maintain and enhance the quality of water in Texas.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1991, 72nd Leg., ch. 516, Sec. 3, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1010, Sec. 1.04, eff. Sept. 1, 1997.

Sec. 15.402. RESEARCH AND PLANNING FUND. The research and planning fund is created in the state treasury to be funded by direct appropriation and at the discretion of the board from the money in the fund.

Added by Acts 1981, 67th Leg. 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 133, Sec. 2.13.

Sec. 15.403. RULES. The board shall adopt rules to carry out this chapter.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981.

Sec. 15.404. RESEARCH CONTRACTS. (a) The board may enter into a contract with any person for research into any matter relating to the conservation and development of the state's water resources or for research by Texas political subdivisions related to the proper conservation and development of water resources of areas outside Texas if such research will result in water being available for use in or for the benefit of Texas or will help maintain and enhance the quality of water in Texas.

(b) Before a contract is awarded, the board may prepare written specifications for the proposed contract and may require each prospective contractor to prepare and submit to the board a written proposal that includes:

- (1) a description of the proposed research project;

(2) a detailed estimate of the cost of the proposed research project;

(3) the estimated time required to complete the research project; and

(4) any other information requested by the board or required by the board's rules.

(c) At a regular or specially called meeting of the board, the board may award a research contract to any person and may provide money from the research and planning fund in any amount the board considers adequate to carry out the research project under the contract.

(d) The board shall adopt rules providing criteria for research projects and for eligibility of persons to receive contract awards under this section.

(e) A contract made by the board under this section shall include:

(1) a detailed description of the research project;

(2) the time in which the research project is to be completed;

(3) the total amount of money to be paid by the board from the research and planning fund for the research project; and

(4) any other terms and conditions required by the board's rules or agreed to by the contracting parties.

(f) The board may enter into a supplemental contract with a contractor under this section to change any of the provisions of a contract awarded under this section including extension of time to complete the project, the award of more research funds, or changes in the planned research.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 1.05, eff. Sept. 1, 1997.

Sec. 15.405. PLANNING CONTRACTS. (a) The board may enter into contracts with political subdivisions to pay from the research and planning fund all or part of the cost of developing flood control plans for the political subdivision.

(b) A political subdivision that desires money from the

research and planning fund for flood control planning shall submit a written application to the board in the manner and form required by board rules.

(c) The application shall include:

- (1) the name of the political subdivision;
- (2) a citation to the laws under which the political subdivision was created and is operating including specific citation of all laws providing flood control authority;
- (3) the amount requested from the board for flood control planning; and
- (4) any other information required by the board in its rules or specifically requested by the board.

(d) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate flood control planning.

(e) If the board grants an application under this section and awards funds for flood control planning, the board shall enter into a contract with the political subdivision that includes:

- (1) a detailed statement of the purpose for which the money is to be used;
- (2) the total amount of money to be paid from the research and planning fund under the contract; and
- (3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria of eligibility for flood control planning money that considers:

- (1) the relative need of the political subdivision for the money;
- (2) the legal authority of the political subdivision to plan for and control flooding; and
- (3) the effect of flood control planning by the political subdivision on overall flood control in the state and within the area in which the political subdivision is located.

(g) The board shall require that flood control plans developed under contracts entered into under this section be made available to the commission.

Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, Sec. 1, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.043, eff. Sept. 1, 1985.

Sec. 15.406. REGIONAL FACILITY PLANNING. (a) The board may enter into contracts with political subdivisions to pay from the research and planning fund all or part of the cost of developing regional facility plans.

(b) A political subdivision that desires money from the research and planning fund for regional facility planning shall submit a written application to the board in the manner and form required by board rules.

(c) The application shall include:

(1) the name of the political subdivision;

(2) a citation to the laws under which the political subdivision was created and is operating including specific citation of all laws providing authority to plan, develop, and operate regional facilities;

(3) the amount requested from the board for regional facility planning; and

(4) any other information required by the board in its rules or specifically requested by the board.

(d) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate regional facility planning.

(e) If the board grants an application under this section and awards funds for regional facility planning, the board shall enter into a contract with the political subdivision that includes:

(1) a detailed statement of the purpose for which the money is to be used;

(2) the total amount of money to be paid from the research and planning fund under the contract; and

(3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria of eligibility for regional facility planning money that considers:

(1) the relative need of the political subdivision for the money;

(2) the legal authority of the political subdivision to plan, develop, and operate regional facilities;

(3) the effect of regional facility planning by the political subdivision on overall regional facility planning, development, and operation in the state and within the area in which the political subdivision is located; and

(4) the degree to which the regional facility planning by the political subdivision is consistent with an approved regional water plan for the area in which the political subdivision is located.

(g) The board may require that regional facility plans developed under contracts entered into under this section be made available to the commission as provided by board rules.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.13. Amended by Acts 1987, 70th Leg., ch. 977, Sec. 15, eff. June 19, 1987; Acts 1997, 75th Leg., ch. 1010, Sec. 1.06, eff. Sept. 1, 1997.

Sec. 15.4061. FUNDING FOR REGIONAL WATER PLANS. (a) The board may enter into contracts with political subdivisions designated as representatives of a regional water planning group under Section 16.053(c) of this code to pay from the research and planning fund all or part of the cost of developing or revising regional water plans as defined in Section 16.053 of this code.

(b) A political subdivision may submit, either individually or jointly with other political subdivisions, a written application to the board for the purpose of funding regional water planning from the research and planning fund.

(c) The application shall be in the manner and form required by board rules and include:

(1) the name of the political subdivision or political subdivisions;

(2) a citation to the laws under which the political subdivision was created and is operating, including specific citation of all laws providing authority to develop and implement a regional water plan;

(3) the amount requested from the board for regional water planning; and

(4) any other relevant information required by the board in its rules or specifically requested by the board.

(d) After notice and hearing, the board may award the applicant all or part of the requested funds that the board considers necessary for the political subdivision to carry out regional water planning.

(e) If the board grants an application under this section and awards funds for regional water planning, the board shall enter into a contract with the political subdivision or political subdivisions that includes:

(1) a detailed statement of the purpose for which the money is to be used;

(2) the total amount of money to be paid by the board from the research and planning fund under the contract; and

(3) any other terms and conditions required by the board's rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria for eligibility for regional water planning money that include:

(1) the relative need of the political subdivision for the money;

(2) the legal authority of the political subdivision to develop and implement a regional water plan; and

(3) the degree to which regional water planning by the political subdivision or political subdivisions will address the water supply needs in the regional water planning area.

(g) The board may not provide funds under this section for activities for which existing information or data is sufficient for the planning effort, including:

(1) detailed evaluation of cost of water supply alternatives where recent information is available to evaluate the cost associated with the alternative;

(2) evaluation of groundwater resources for which current information is available from the board or other entity sufficient for evaluation of the resource;

(3) determination of water savings resulting from

standard conservation practices for which current information is available from the board;

(4) revision of board demand and population projections;

(5) revision of environmental planning criteria for new surface water supply projects as defined in the state water plan guidelines established in Section [16.051\(d\)](#) of this section; and

(6) collection of data describing groundwater or surface water resources where information for evaluation of the resource is currently available.

(h) The board shall require that regional water plans developed or revised under contracts entered into under this section be made available to the commission, the Department of Agriculture, and the Parks and Wildlife Department.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 1.07, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 456, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 979, Sec. 1, eff. June 18, 1999.

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may authorize the use of money in the research and planning fund:

(1) to compensate the members of the Texas environmental flows science advisory committee established under Section [11.02361](#) for attendance and participation at meetings of the committee and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act;

(2) for contracts with cooperating state and federal agencies and universities and with private entities as necessary to provide technical assistance to enable the Texas environmental flows science advisory committee and the basin and bay expert science teams established under Section [11.02362](#) to perform their statutory duties;

(3) to compensate the members of the basin and bay expert science teams established under Section [11.02362](#) for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings

as provided by the General Appropriations Act; and

(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section [11.02362](#) to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

Added by Acts 2007, 80th Leg., R.S., Ch. 1351 (H.B. 3), Sec. 1.22, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 1.22, eff. September 1, 2007.

Sec. 15.407. FACILITY ENGINEERING IN ECONOMICALLY DISTRESSED AREAS. (a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section [17.921](#).

(b) The board may enter into contracts with a political subdivision to pay from the research and planning fund all or part of the cost of facility engineering in economically distressed areas, including preparation of plans and specifications.

(c) The selection process used by a political subdivision to procure engineering services necessary for facility engineering is subject to review by and approval of the executive administrator. The executive administrator may assist a political subdivision in the selection of the provider of engineering services necessary for facility engineering in economically distressed areas.

(d) The board shall adopt rules governing the procurement of facility engineering services by a political subdivision awarded funds under this subchapter and may adopt other rules necessary to carry out the board's powers and duties under this subchapter.

(e) A political subdivision that desires money from the research and planning fund for facility engineering in an economically distressed area shall submit a written application to the board in the manner and form required by board rules.

(f) The application shall include:

(1) the name of the political subdivision;

(2) a citation to the laws under which the political

subdivision was created and is operating;

(3) the amount requested from the board for facility engineering in an economically distressed area; and

(4) any other information required by the board in its rules or specifically requested by the board.

(g) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate facility engineering in an economically distressed area.

(h) If the board grants an application under this section and awards funds for facility engineering in an economically distressed area, the board shall enter into a contract with the political subdivision that includes:

(1) a detailed statement of the purpose for which the money is to be used;

(2) the total amount of money to be paid from the research and planning fund under the contract; and

(3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(i) Repealed by Acts 2005, 79th Leg., Ch. 927, Sec. 15, eff. September 1, 2005.

(j) If the board determines that planning activities undertaken by a political subdivision for which the board has committed funds under this subchapter have been inadequate or not completed in a timely manner, the board may terminate the contract with the political subdivision and on behalf of and in consultation with the political subdivision may perform or contract for facility engineering in the economically distressed area.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.12, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 649, Sec. 1, eff. June 14, 1995; Acts 1999, 76th Leg., ch. 404, Sec. 32, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 15, eff. September 1, 2005.

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

Sec. 15.431. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the State Water Implementation Fund for Texas Advisory Committee.

(2) "Fund" means the state water implementation fund for Texas.

(3) "Historically underutilized business" has the meaning assigned by Section 2161.001, Government Code.

(4) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.432. FUND. (a) The state water implementation fund for Texas is a special fund in the state treasury outside the general revenue fund to be used by the board, without further legislative appropriation, for the purpose of implementing the state water plan as provided by this subchapter. The board may establish separate accounts in the fund. The fund and the fund's accounts are kept and held by the trust company for and in the name of the board. The board has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and board rules. It is the intent of the legislature that the fund will never be used:

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

(2) to certify that appropriations from the treasury are within the amount estimated to be available in a fund of the treasury affected by the appropriation.

(b) Money deposited to the credit of the fund may be used only as provided by this subchapter.

(c) The fund consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as

authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

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

(4) investment earnings and interest earned on amounts credited to the fund; and

(5) money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by Section 15.435.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.433. MANAGEMENT AND INVESTMENT OF FUND. (a) The trust company shall hold and invest the fund, and any accounts established in the fund, for and in the name of the board, taking into account the purposes for which money in the fund may be used. The fund may be invested with the state treasury pool.

(b) The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund.

(c) The trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) The trust company may charge fees to cover its costs incurred in managing and investing the fund. The fees must be consistent with the fees the trust company charges other state and

local governmental entities for which it provides investment management services. The trust company may recover fees it charges under this subsection only from the earnings of the fund.

(e) The trust company annually shall provide a written report to the board and to the advisory committee with respect to the investment of the fund. The trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the board and to the advisory committee. This subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321, Government Code.

(f) The trust company shall adopt a written investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code. The investment advisory board shall submit to the trust company recommendations regarding the policy.

(g) The board annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The board shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) The trust company shall disburse money from the fund as directed by the board. The board shall direct disbursements from the fund on a semiannual schedule specified by the board and not more frequently than twice in any state fiscal year.

(i) An investment-related contract entered into under this section is not subject to Chapter 2260, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) At the direction of the board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond enhancement agreement authorized by Section 15.435 in the amounts the board determines are needed for debt service payments on or security provisions of the board's general

obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account.

(b) Of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, the board shall undertake to apply not less than:

(1) 10 percent to support projects described by Section 15.435 that are for:

(A) rural political subdivisions as defined by Section 15.992; or

(B) agricultural water conservation; and

(2) 20 percent to support projects described by Section 15.435, including agricultural irrigation projects, that are designed for water conservation or reuse.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond enhancement agreement entered into under this section is an agreement for professional services. A bond enhancement agreement must contain terms that are consistent with Section 15.433(h), and the agreement, including the period covered by the agreement and all other terms and conditions of the agreement, must be approved by the board. An obligation to disburse money from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement is a special obligation of the board payable solely from designated income and receipts of the fund or of the account, as determined by the board. An obligation to disburse money from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement does not constitute indebtedness of the state.

(b) To facilitate the use of the fund for the purposes of this subchapter, the board may direct the trust company to enter into bond enhancement agreements to provide a source of revenue or security for the payment of the principal of and interest on general obligation bonds, including bonds issued under Section 49-d-9 or

49-d-11, Article III, Texas Constitution, or revenue bonds issued by the board to finance or refinance projects included in the state water plan if the proceeds of the sale of the bonds have been or will be deposited to the credit of:

(1) the state water implementation revenue fund for Texas;

(2) the water infrastructure fund;

(3) the rural water assistance fund;

(4) the Texas Water Development Fund II state participation account; or

(5) the agricultural water conservation fund.

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

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

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

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

(B) 30 years;

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

(A) principal and interest; or

(B) accrued interest;

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

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

(d) The board may direct the trust company to enter into

bond enhancement agreements with respect to bonds issued by the board before September 1, 2013, only if:

(1) those bonds otherwise satisfy the requirements of Subsections (b) and (c);

(2) the proceeds of those bonds were or are required to be used only for the implementation of water projects recommended through the state and regional water planning processes under Sections [16.051](#) and [16.053](#); and

(3) general revenue of the state was appropriated before September 1, 2013, for the payment of debt service on those bonds.

(e) The board may direct the trust company to enter into bond enhancement agreements with respect to refunding bonds issued by the board to refund bonds issued by the board the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c).

(f) The board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which have been or are to be used to make grants.

(g) The board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant if at the time of the request the applicant has failed to:

(1) submit or implement a water conservation plan in accordance with Section [11.1271](#); or

(2) satisfactorily complete a request by the executive administrator or a regional water planning group for information relevant to the project for which the financial assistance is sought, including a water infrastructure financing survey under Section [16.053\(q\)](#).

(h) The board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant unless at the time of the request the

applicant has acknowledged its legal obligation to comply with any applicable requirements of:

(1) federal law relating to contracting with disadvantaged business enterprises; and

(2) state law relating to contracting with historically underutilized businesses.

(i) The board may not approve a bond enhancement agreement with respect to bonds issued by the board unless the agreement contains a provision to the effect that if the trust company makes a disbursement under the bond enhancement agreement from the fund to the credit of another fund or account as provided by Section 15.434(a), the board shall direct the comptroller to transfer an amount not to exceed that amount from the fund or account receiving the payment back to the fund if:

(1) money is available in the surplus balance in the fund or account for that purpose; and

(2) the money transferred back to the fund will not cause general obligation bonds that are payable from the fund or account receiving the payment to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution.

(j) For purposes of Subsection (i)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by the board, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of the board's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of an acquired facility, money received from the sale of water associated with an acquired facility, and related investment earnings, that exceeds the amount required to pay annual debt service on the bonds and any other amounts specified in the resolution or other proceedings authorizing the bonds and any related obligations.

(k) The board shall submit each bond enhancement agreement and the record relating to the agreement to the attorney general for examination as to the validity of the agreement. If the attorney

general finds that the agreement has been made in accordance with the constitution and other laws of this state, the attorney general shall approve the agreement and the comptroller shall register the agreement. If the agreement is not submitted at the same time that the bonds to which it relates are submitted, the agreement shall be treated as a public security solely for the purposes of Section [1202.004](#), Government Code.

(1) After a bond enhancement agreement has been approved and registered as provided by Subsection (k), the agreement is valid and is incontestable for any cause.

(m) At the direction of the board, the trust company shall make disbursements from the fund, or from a special account established by the board, in accordance with a bond enhancement agreement in the amounts the board determines are needed for debt service payments on, or for security provisions of, general obligation bonds or revenue bonds issued by the board the proceeds of the sale of which have been deposited in another fund administered by the board, or in an account in that other fund, for use in accordance with this subchapter, after the board considers all other sources available for those purposes in that other fund or account. Money transferred under this subsection may be deposited into that other fund or into a special account established by the trust company or a corporate trustee that is a trust company or a bank that has the powers of a trust company, as determined by the board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER PLANNING GROUPS. (a) Each regional water planning group shall prioritize projects in its respective regional water plan for the purposes of Section [15.435](#). At a minimum, a regional water planning group must consider the following criteria in prioritizing each project:

- (1) the decade in which the project will be needed;
- (2) the feasibility of the project, including the availability of water rights for purposes of the project and the

hydrological and scientific practicability of the project;

(3) the viability of the project, including whether the project is a comprehensive solution with a measurable outcome;

(4) the sustainability of the project, taking into consideration the life of the project; and

(5) the cost-effectiveness of the project, taking into consideration the expected unit cost of the water to be supplied by the project.

(b) In prioritizing projects, each regional water planning group shall include projects that meet long-term needs as well as projects that meet short-term needs.

(c) The board shall create a stakeholders committee composed of the presiding officer or a person designated by the presiding officer of each regional water planning group to establish uniform standards to be used by the regional water planning groups in prioritizing projects under this section. Uniform standards established under this subsection must be approved by the board. The board shall consult the stakeholders committee from time to time regarding regional prioritization of projects.

(d) Each regional water planning group shall submit to the board the prioritization developed by the group under this section together with the group's respective regional water plan developed and submitted under Section [16.053](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.437. PRIORITIZATION OF PROJECTS BY BOARD. (a) The board shall prioritize projects included in the state water plan for the purpose of providing financial assistance under this subchapter.

(b) The board shall establish a point system for prioritizing projects for which financial assistance is sought from the board. The system must include a standard for the board to apply in determining whether a project qualifies for financial assistance at the time the application for financial assistance is filed with the board.

(c) The board shall give the highest consideration in awarding points to projects that will have a substantial effect, including projects that will:

- (1) serve a large population;
- (2) provide assistance to a diverse urban and rural population;
- (3) provide regionalization; or
- (4) meet a high percentage of the water supply needs of the water users to be served by the project.

(d) In addition to the criteria provided by Subsection (c), the board must also consider at least the following criteria in prioritizing projects:

(1) the local contribution to be made to finance the project, including the up-front capital to be provided by the applicant;

(2) the financial capacity of the applicant to repay the financial assistance provided;

(3) the ability of the board and the applicant to timely leverage state financing with local and federal funding;

(4) whether there is an emergency need for the project, taking into consideration whether:

(A) the applicant is included at the time of the application on the list maintained by the commission of local public water systems that have a water supply that will last less than 180 days without additional rainfall; and

(B) federal funding for which the project is eligible has been used or sought;

(5) if the applicant is applying for financial assistance for the project under Subchapter Q, whether the applicant is ready to proceed with the project at the time of the application, including whether:

(A) all preliminary planning and design work associated with the project has been completed;

(B) the applicant has acquired the water rights associated with the project;

(C) the applicant has secured funding for the project from other sources; and

(D) the applicant is able to begin implementing or constructing the project;

(6) the demonstrated or projected effect of the project on water conservation, including preventing the loss of water, taking into consideration, if applicable, whether the applicant has filed a water audit with the board under Section [16.0121](#) that demonstrates that the applicant is accountable with regard to reducing water loss and increasing efficiency in the distribution of water; and

(7) the priority given the project by the applicable regional water planning group under Section [15.436](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water Implementation Fund for Texas Advisory Committee is composed of the following seven members:

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

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

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

(B) a member of the committee of the senate having primary jurisdiction over natural resources; and

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

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

(B) a member of the committee of the house of representatives having primary jurisdiction over natural resources.

(b) The following persons shall serve as staff support for the advisory committee:

(1) the deputy executive administrator of the board

who is responsible for water science and conservation or a person who holds an equivalent position at the agency, or a person designated by that person;

(2) the deputy executive administrator of the board who is responsible for water resources planning and information or a person who holds an equivalent position at the agency, or a person designated by that person; and

(3) the chief financial officer of the board, or a person who holds an equivalent position at the agency.

(c) An appointed member of the advisory committee serves at the will of the person who appointed the member.

(d) The lieutenant governor shall appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor, and the speaker of the house of representatives shall appoint a co-presiding officer of the committee from among the members appointed by the speaker.

(e) The advisory committee may hold public hearings, formal meetings, or work sessions. Either co-presiding officer of the advisory committee may call a public hearing, formal meeting, or work session of the advisory committee at any time. The advisory committee may not take formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(f) Except as otherwise provided by this subsection, a member of the advisory committee is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee. Service on the advisory committee by a member of the senate or house of representatives is considered legislative service for which the member is entitled to reimbursement and other benefits in the same manner and to the same extent as for other legislative service.

(g) The advisory committee shall submit comments and recommendations to the board regarding the use of money in the fund for use by the board in adopting rules under Section [15.439](#) and in adopting policies and procedures under Section [15.441](#). The submission must include:

(1) comments and recommendations on rulemaking related to the prioritization of projects in regional water plans and the state water plan in accordance with Sections 15.436 and 15.437;

(2) comments and recommendations on rulemaking related to establishing standards for determining whether projects meet the criteria provided by Section 15.434(b);

(3) an evaluation of the available programs for providing financing for projects included in the state water plan and guidelines for implementing those programs, including guidelines for providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17;

(4) an evaluation of the lending practices of the board and guidelines for lending standards;

(5) an evaluation of the use of funds by the board to provide support for financial assistance for water projects, including support for the purposes described by Section 15.435(c);

(6) an evaluation of whether premium financing programs should be established within the funds described by Section 15.435 to serve the purposes of this subchapter, especially in connection with projects described by Section 15.434(b);

(7) an evaluation of methods for encouraging participation in the procurement process by companies domiciled in this state or that employ a significant number of residents of this state; and

(8) an evaluation of the overall operation, function, and structure of the fund.

(h) The advisory committee shall review the overall operation, function, and structure of the fund at least semiannually and may provide comments and recommendations to the board on any matter.

(i) The advisory committee may adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

(j) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

(k) The advisory committee is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the advisory committee is abolished and this section expires September 1, 2023.

(l) The advisory committee shall make recommendations to the board regarding information to be posted on the board's Internet website under Section 15.440(b).

(m) The advisory committee shall evaluate and may provide comments or recommendations on the feasibility of the state owning, constructing, and operating water supply projects, including reservoirs and major water supply conveyance infrastructure, through existing financial assistance programs under Subchapter E of this chapter, Subchapter E or F, Chapter 16, or other mechanisms.

(n) The executive administrator shall provide an annual report to the advisory committee on:

(1) the board's compliance with statewide annual goals relating to historically underutilized businesses; and

(2) the participation level of historically underutilized businesses in projects that receive funding related to a bond enhancement agreement under this subchapter.

(o) If the aggregate level of participation by historically underutilized businesses in projects that receive funding related to a bond enhancement agreement under this subchapter does not meet statewide annual goals adopted under Chapter 2161, Government Code, the advisory committee shall make recommendations to the board to improve the participation level.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.439. RULES. (a) The board shall adopt rules providing for the use of money in the fund that are consistent with this subchapter, including rules:

(1) establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); and

(2) specifying the manner for prioritizing projects for purposes of Sections 15.436 and 15.437.

(b) The board shall give full consideration to the

recommendations of the advisory committee before adopting rules under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 921 (S.B. 1511), Sec. 1, eff. September 1, 2017.

Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS.

(a) Not later than December 1 of each even-numbered year, the board shall provide a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature regarding the use of the fund, including the use of the fund to support projects that are for rural political subdivisions or agricultural water conservation or that are designed for water conservation or reuse as required by Section 15.434(b).

(b) The board shall post the following information on the board's Internet website regarding the use of the fund and regularly update the information posted:

(1) the progress made in developing needed water supply statewide and for the benefit of each regional water planning area;

(2) for each regional water planning area, a description of each project funded through bonds supported by a bond enhancement agreement entered into under Section 15.435, including:

(A) the expected date of completion of the project;

(B) the current status of the project;

(C) the amount of bonds issued and the terms of the bonds;

(D) a summary of the terms of the bond enhancement agreement; and

(E) the status of repayment of any loan provided in connection with the project, including an assessment of the risk of default based on a standard risk rating system;

(3) a description of the investment portfolio of the

fund;

(4) the expenses incurred in investing money in the fund;

(5) the rate of return on the investment of money in the fund;

(6) a description of the point system for prioritizing projects established by the board under Section 15.437(b) and the number of points awarded by the board for each project;

(7) any nonconfidential information submitted to the board as part of an application for financial assistance under this subchapter that is approved by the board;

(8) the administrative and operating expenses incurred by the board in developing the state water plan and providing financial assistance for projects included in the plan; and

(9) any other information required by board rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 147 (H.B. 280), Sec. 1, eff. September 1, 2015.

Sec. 15.441. POLICIES AND PROCEDURES TO MITIGATE OR MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall adopt, and may amend from time to time at the board's discretion, policies and procedures for the purpose of mitigating or minimizing the adverse effects, if any, of federal laws and regulations relating to income taxes, arbitrage, rebates, and related matters that may restrict the board's ability to freely invest all or part of the fund or to receive and retain all the earnings from the fund. Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

Sec. 15.471. DEFINITION. In this subchapter, "fund" means the state water implementation revenue fund for Texas.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.472. FUND. (a) The state water implementation revenue fund for Texas is a special fund in the state treasury outside the general revenue fund to be used by the board, without further legislative appropriation, only for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. The board may establish separate accounts in the fund. The board has legal title to money and investments in the fund until the money is disbursed as provided by this subchapter and board rules. It is the intent of the legislature that the fund will never be used:

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

(2) to certify that appropriations from the treasury are within the amount estimated to be available in a fund of the treasury affected by the appropriation.

(b) Money deposited to the credit of the fund may be used only as provided by this subchapter.

(c) The fund consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

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

(4) investment earnings and interest earned on amounts credited to the fund;

(5) the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the board for the purpose of providing money for the fund;

(6) repayments of loans made from the fund;

(7) money from the sale, transfer, or lease of a project acquired, constructed, reconstructed, developed, or enlarged with money from the fund; and

(8) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Money deposited to the credit of the fund shall be invested as determined by the board. The fund may be invested with the state treasury pool.

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

(c) At the direction of the board, the fund and any accounts established in the fund may be managed by the comptroller or a corporate trustee that is a trust company or a bank that has the powers of a trust company for and on behalf of the board and pending their use for the purposes provided by this subchapter may be invested as provided by an order, resolution, or rule of the board.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.474. USE OF FUND. (a) Except as provided by Subsection (c), money in the fund may be used by the board only to provide financing or refinancing, under terms specified by the board, for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, including water conservation or reuse projects designed to reduce the need for this state or political subdivisions of this state to develop additional water resources.

(b) Financing or refinancing of projects described by

Subsection (a) may be provided by using money in the fund to make loans to eligible political subdivisions or to purchase bonds or other obligations of eligible political subdivisions bearing interest at a rate or rates determined by the board, including a rate or rates below prevailing market rates.

(c) The board may use money in the fund:

(1) as a source of revenue or security for:

(A) the payment of the principal of and interest on:

(i) revenue bonds issued by the board under this subchapter; or

(ii) other bonds issued by the board if the proceeds of the bonds will be deposited in the fund; or

(B) a bond enhancement agreement;

(2) to acquire loans or other assets from another fund or account administered by the board, including political subdivision bonds sold or disposed of under Section [15.978](#) or [17.968](#); or

(3) to pay the necessary and reasonable expenses of paying agents, bond counsel, and financial advisory services and similar costs incurred by the board in administering the fund.

(d) The board, or comptroller or corporate trustee managing the fund at the direction of the board as provided by Section [15.473\(c\)](#), shall withdraw from the fund and forward to another person any amounts, as determined by the board, for timely payment of:

(1) the principal of and interest on bonds described by Subsection (c)(1)(A) of this section that mature or become due; and

(2) any cost related to bonds described by Subsection (c)(1)(A) of this section that become due, including payments under related credit agreements or bond enhancement agreements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.475. ISSUANCE OF REVENUE BONDS. (a) The board may issue revenue bonds for the purpose of providing money for the fund.

(b) The board may issue revenue bonds to refund revenue bonds or bonds and obligations issued or incurred in accordance with other provisions of law.

(c) Revenue bonds issued under this subchapter are special obligations of the board payable only from and secured by designated income and receipts of the fund, or of one or more accounts in the fund, including principal of and interest paid and to be paid on fund assets or income from accounts created within the fund by the board, as determined by the board.

(d) Revenue bonds issued under this subchapter do not constitute indebtedness of the state as prohibited by the constitution.

(e) The board may require fund participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.

(f) Revenue bonds issued under this subchapter must be authorized by resolution of the board and must have the form and characteristics and bear the designations as the resolution provides.

(g) Revenue bonds issued under this subchapter may:

(1) bear interest at the rate or rates payable annually or otherwise;

(2) be dated;

(3) mature at the time or times, serially, as term revenue bonds, or otherwise in not more than 50 years from their dates;

(4) be callable before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided by the resolution;

(5) be issued in temporary or permanent form;

(6) be issued in one or more installments and from time

to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable; and

(7) be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this subchapter or may be issued without parity and secured differently than other revenue bonds.

(h) Section 17.955 applies to revenue bonds issued under this subchapter in the same manner as that section applies to water financial assistance bonds.

(i) All proceedings relating to the issuance of revenue bonds issued under this subchapter shall be submitted to the attorney general for examination. If the attorney general finds that the revenue bonds have been authorized in accordance with law, the attorney general shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller. After the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

(j) The proceeds received from the sale of revenue bonds issued under this subchapter may be deposited or invested in any manner and in such investments as may be specified in the resolution or other proceedings authorizing those obligations. Money in the fund or accounts created by this subchapter or created in the resolution or other proceedings authorizing the revenue bonds may be invested in any manner and in any obligations as may be specified in the resolution or other proceedings.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

Sec. 15.476. SUBCHAPTER CUMULATIVE OF OTHER LAWS.

(a) This subchapter is cumulative of other laws on the subject, and the board may use provisions of other applicable laws in the issuance of bonds and other obligations and the execution of bond enhancement agreements, but this subchapter is wholly sufficient authority for the issuance of bonds and other obligations, the execution of bond enhancement agreements, and the performance of

all other acts and procedures authorized by this subchapter.

(b) In addition to other authority granted by this subchapter, the board may exercise the authority granted to the governing body of an issuer with regard to the issuance of obligations under Chapter 1371, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.02, eff. November 5, 2013.

SUBCHAPTER J. FINANCIAL ASSISTANCE FOR WATER POLLUTION CONTROL

Sec. 15.601. CREATION OF FUND. (a) The state water pollution control revolving fund shall be administered by the board under this subchapter and rules adopted by the board. The fund shall be used to provide financial assistance to political subdivisions for construction of treatment works and to persons for nonpoint source pollution control and abatement projects under Section 15.603(h), in accordance with the capitalization grant program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(b) The board may establish one or more additional state revolving funds in accordance with other capitalization grant programs hereafter established by federal agencies or otherwise authorized by federal law. Such additional state revolving funds shall be held and administered by the board in the same manner as provided by Section 15.603 of this code for the administration of the state water pollution control revolving fund, except that such additional state revolving funds shall be held and administered in accordance with the federal legislation or federal agency program under which the additional state revolving fund was established and shall be used to provide financial assistance to political subdivisions for public works in accordance with such legislation or program. In the administration of such additional state revolving funds, the board shall have all rights and powers authorized to the board pursuant to this subchapter in connection with the administration of the state water pollution control revolving fund, together with such additional rights and powers as are necessary or appropriate in connection with the administration

of such additional state revolving funds.

(c) The board may, in its discretion, provide for the state water pollution control revolving fund to be merged into any additional state revolving fund hereafter created.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Amended by Acts 1993, 73rd Leg., ch. 184, Sec. 1, eff. May 19, 1993;

Acts 2001, 77th Leg., ch. 1234, Sec. 19, eff. Sept. 1, 2001.

Sec. 15.602. DEFINITIONS. In this subchapter:

(1) "Additional state revolving fund" means any state revolving fund hereafter established by the board to provide financial assistance to political subdivisions for public works in accordance with a capitalization grant program hereafter established by a federal agency or otherwise authorized by federal law.

(2) "Authorized investments" means any authorized investments described in Section 404.024, Government Code.

(3) "Community water system" means a public water system that:

(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

(B) regularly serves at least 25 year-round residents.

(4) "Construction" shall have the meaning assigned by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(5) "Disadvantaged community" means an area meeting criteria established by board rule, which criteria shall be based on measures that may include single-family residential property valuation, income levels of residents of the area, or other similarly appropriate measures.

(5-a) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, agrees to participate in a linked deposit program established under Section 15.611 and to provide collateral equal to the amount of linked deposits placed with it, and meets any other requirements established by board

rule.

(6) "Federal Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(7) "Nonprofit noncommunity water system" means a public water system that is not operated for profit and that:

(A) is owned by a political subdivision or nonprofit entity; and

(B) is not a community water system.

(8) "Person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state or any interstate body, as defined by Section 502 of the federal act, including a political subdivision as defined by this subchapter, if the person is eligible for financial assistance under federal law establishing the revolving fund.

(9) "Political subdivision" means a municipality, intermunicipal, interstate, or state agency, any other public entity eligible for assistance under this subchapter, or a nonprofit water supply corporation created and operating under Chapter 67, if such entity is eligible for financial assistance under federal law establishing the state revolving fund or an additional state revolving fund.

(10) "Public water system" means a system that is owned by any person and that meets the definition of public water system in the Safe Drinking Water Act.

(11) "Public works" means any project to acquire, construct, improve, repair, or otherwise provide any buildings, structures, facilities, equipment, or other real or personal property or improvements designed for public use, protection, or enjoyment undertaken by a political subdivision and paid for, in whole or in part, out of public funds.

(12) "Revolving fund" means the state water pollution control revolving fund.

(13) "Safe Drinking Water Act" means Title XIV of the federal Public Health Service Act, commonly known as the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f et seq.).

(14) "Safe drinking water revolving fund" means the

fund established by the board as an additional state revolving fund to provide financial assistance in accordance with the federal program established pursuant to the provisions of the Safe Drinking Water Act.

(15) "Treatment works" has the meaning established by the federal act and the eligible components of the management programs established by Sections 319 and 320 of the federal act.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Amended by Acts 1993, 73rd Leg., ch. 184, Sec. 2, eff. May 19, 1993;

Acts 1993, 73rd Leg., ch. 477, Sec. 6, eff. Aug. 30, 1993; Acts

1997, 75th Leg., ch. 1010, Sec. 6.15, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 62, Sec. 18.56, eff. Sept. 1, 1999; Acts 2001,

77th Leg., ch. 966, Sec. 4.13, eff. Sept. 1, 2001; Acts 2003, 78th

Leg., ch. 200, Sec. 19(a), eff. Sept. 1, 2003; Acts 2003, 78th

Leg., ch. 352, Sec. 1, eff. Sept. 1, 2003.

Sec. 15.603. CREATION AND ADMINISTRATION OF PROGRAM. (a)

The revolving fund is held separately from other funds by the board outside the State Treasury to provide financial assistance to political subdivisions for construction of treatment works and to persons for estuary management projects and for nonpoint source pollution control and abatement projects under Subsection (h).

(b) The board may execute agreements with the Environmental Protection Agency or any other federal agency to establish and administer the revolving fund and may discharge the duties and responsibilities required for the administration of the revolving fund.

(c) The revolving fund consists of money derived from federal grants, direct appropriations, investment earnings on amounts credited to the revolving fund, and, at the board's discretion, from any and all sources available.

(d) The revolving fund shall remain available in perpetuity for providing financial assistance in accordance with the federal act.

(e) All payments of principal and interest and all proceeds from the sale, refunding, or prepayment of bonds of political subdivisions acquired in carrying out the purposes of the revolving

fund shall be deposited in the revolving fund.

(f) The board shall administer the revolving fund in the manner provided by the federal act, state law, and the rules of the board.

(g) The revolving fund and any accounts established in the revolving fund shall be kept and maintained by or at the direction of the board and do not constitute and are not a part of the State Treasury. However, at the direction of the board, the revolving fund or accounts in the revolving fund may be kept and held in escrow and in trust by the comptroller for and on behalf of the board, shall be used only as provided by this subchapter, and pending such use shall be invested in authorized investments as provided by any order, resolution, or rule of the board. Legal title to money and investments in the revolving fund is in the board unless or until paid out as provided by this subchapter, the federal act, and the rules of the board. The comptroller, as custodian, shall administer the funds strictly and solely as provided by this subchapter and in the orders, resolutions, and rules, and the state shall take no action with respect to the revolving fund other than that specified in this subchapter, the federal act, and the rules of the board.

(h) The board may establish a separate account in the revolving fund to be used solely for providing financial assistance to persons for nonpoint source pollution control and abatement projects. The account shall be composed solely of funds appropriated by the legislature, funds provided as gifts or grants by the United States, interest earnings on amounts credited to the account, and repayments of loans made from the account. The board shall adopt rules establishing the criteria for eligibility and the terms of assistance for persons that receive financial assistance from the account.

(i) In addition to authorized purposes under Subsection (a), the revolving fund is held by the board to provide linked deposits to eligible financial institutions for loans to persons for nonpoint source pollution control projects.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.
Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 6.17, eff. Sept. 1,

1997; Acts 1997, 75th Leg., ch. 1423, Sec. 20.03, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 966, Sec. 4.14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1234, Sec. 20, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 19(b), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 18.004, eff. Sept. 1, 2003.

Sec. 15.604. FINANCIAL ASSISTANCE UNDER THE REVOLVING FUND.

(a) The board may use the revolving fund for financial assistance only as provided by the federal act:

(1) to make loans, on the conditions that:

(A) those loans are made at or below market interest rates, including interest-free loans, at terms not to exceed 20 years;

(B) principal and interest payments will begin not later than one year after completion of any treatment works and all loans will be fully amortized not later than 20 years after completion of the treatment works;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the revolving fund will be credited with all payments of principal of and interest on all loans;

(2) to buy or refinance the debt obligation of political subdivisions at or below market rates if the debt obligations were incurred after March 7, 1985;

(3) to guarantee or purchase insurance for political subdivisions if the guarantee or insurance would improve access to market credit or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the state if the proceeds of the sale of those bonds will be deposited in the revolving fund;

(5) to provide loan guarantees to similar revolving funds established by municipalities or intermunicipal agencies;

(6) to earn interest on revolving fund accounts;

(7) for the reasonable costs of administering the revolving fund and conducting activities provided for by Title VI

of the federal act, except that those amounts may not exceed the amount authorized under Title VI of the federal act;

(8) to provide financial assistance to persons for a nonpoint source pollution control project under Section 319 of the federal act or for an estuary management project under Section 320 of the federal act;

(9) for other purposes as provided by the federal act;
and

(10) to provide linked deposits to eligible lending institutions for loans to persons for nonpoint source pollution control projects.

(b) The board shall adopt rules specifying the manner in which any additional state revolving fund hereafter established by the board, or any capitalization grant under the state water pollution control revolving fund, the safe drinking water revolving fund, or any additional state revolving fund, may be used to provide financial assistance to an eligible applicant for public works. Such rules shall require financial assistance to be provided for the purpose or purposes and on the terms authorized by the federal legislation or federal agency program under which the additional state revolving fund was established or the capitalization grant was awarded.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Amended by Acts 1993, 73rd Leg., ch. 184, Sec. 3, eff. May 19, 1993;

Acts 2001, 77th Leg., ch. 966, Sec. 4.15, eff. Sept. 1, 2001; Acts

2003, 78th Leg., ch. 200, Sec. 19(c), eff. Sept. 1, 2003; Acts

2003, 78th Leg., ch. 352, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1243 (S.B. [2314](#)), Sec. 1, eff. June 19, 2009.

Sec. 15.6041. FINANCIAL ASSISTANCE UNDER THE SAFE DRINKING WATER REVOLVING FUND. (a) The safe drinking water revolving fund shall be administered by the board under this subchapter and rules adopted by the board. The safe drinking water revolving fund shall be held and administered by the board in the same manner as provided by Section 15.603, except that the safe drinking water revolving

fund shall be held and administered in accordance with the Safe Drinking Water Act and shall be used to provide financial assistance in accordance with that act and in the manner provided by rules adopted by the board:

(1) to political subdivisions for community water systems and for nonprofit noncommunity water systems;

(2) to persons other than political subdivisions for community water systems or nonprofit noncommunity water systems from the account established by Subsection (b)(1);

(3) to persons, including political subdivisions, for service to disadvantaged communities from the account established by Subsection (b)(2); and

(4) for other purposes authorized by the Safe Drinking Water Act.

(b) In addition to other accounts the board may establish in the safe drinking water revolving fund, the board shall establish the following separate accounts:

(1) the community/noncommunity water system financial assistance account, to be used solely for providing financial assistance to persons, other than political subdivisions, providing services through a community water system or a nonprofit noncommunity water system, which account shall be composed solely of funds appropriated by the legislature, funds provided as gifts or grants by the United States government, interest earnings on amounts credited to the account, and repayments of loans made from the account; and

(2) the disadvantaged community account, to be used solely for providing financial assistance under the terms of Subsections (c) and (d), which account shall be composed solely of funds appropriated by the legislature, funds provided as gifts or grants by the United States government, interest earnings on amounts credited to the account, and repayments of loans made from the account.

(c) The board may provide financial assistance from the disadvantaged community account to:

(1) a political subdivision:

(A) that is a disadvantaged community; or

(B) for a project serving an area that:

(i) is located outside the boundaries of the political subdivision; and

(ii) meets the definition of a disadvantaged community; or

(2) an owner of a community water system that is ordered by the commission to provide service to a disadvantaged community, provided that the financial assistance is for the sole purpose of providing service to a disadvantaged community.

(d) In providing financial assistance from the disadvantaged community account, the board shall determine the amount of a loan which the political subdivision cannot repay based on affordability criteria established by the board by rule. The board shall forgive repayment of that portion of the principal of the loan which the board determines the political subdivision cannot repay. Financial assistance from the disadvantaged community account may not exceed the allowable percentage of the amount of the capitalization grant received by the state pursuant to the Safe Drinking Water Act.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 6.16, eff. Sept. 1, 1997.

Sec. 15.6042. CROSS-COLLATERALIZATION OF FUNDS. (a) In this section, "state revolving fund bonds" means revenue bonds issued by the board to provide funds for the revolving fund, the safe drinking water revolving fund, or an additional state revolving fund.

(b) Notwithstanding any other law to the contrary, the board by resolution may approve the use of assets of the revolving fund, the safe drinking water revolving fund, or an additional state revolving fund as a source of revenue or security, or both revenue and security, for the payment of the principal of and interest on state revolving fund bonds.

Added by Acts 2015, 84th Leg., R.S., Ch. 95 (H.B. [1224](#)), Sec. 1, eff. May 23, 2015.

Sec. 15.605. RULES. The board shall adopt necessary rules

to carry out this subchapter.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Sec. 15.606. LENDING RATE. The board shall determine and provide for the lending rates to be charged on loans from the revolving fund.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Sec. 15.607. APPROVAL OF APPLICATION. On review of recommendations by the executive administrator, the board by resolution may approve an application if the board finds that in its opinion the revenue or taxes or both revenue and taxes pledged by the applicant will be sufficient to meet all the obligations assumed by the applicant and that the application and assistance applied for meet the requirements of the federal act and state law. A program of water conservation for the more effective use of water shall be required in the same manner as required for approval of an application for financial assistance under Section 15.106 of this code.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Amended by Acts 2001, 77th Leg., ch. 966, Sec. 4.16, eff. Sept. 1, 2001.

Sec. 15.608. APPROVAL AND REGISTRATION. The board may not buy or refinance any bonds or securities or guarantee or purchase insurance for bonds or securities of political subdivisions that have not been approved by the attorney general and registered by the comptroller.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 1, eff. June 17, 1987.

Sec. 15.609. RECOVERY OF ADMINISTRATIVE COSTS. (a) The board may charge a recipient of financial assistance from the revolving fund or an additional state revolving fund an origination fee and an annual fee. The board by rule shall set the fees at amounts it considers necessary to recover the costs incurred by the board in administering the revolving fund or an additional state revolving fund that are not paid from that fund.

(b) The board may establish one or more operating funds to finance the administration of the revolving fund or an additional state revolving fund. An operating fund must be held outside the state treasury and separate from the fund to which it relates. The board shall deposit to the credit of the appropriate operating fund the fees collected under Subsection (a). The board shall use money deposited to the credit of an operating fund to pay the board's costs of administering the revolving fund or additional state revolving fund to which the operating fund relates, including the cost of servicing debt obligations of recipients of financial assistance made available from the revolving fund or additional state revolving fund.

(c) The board may not transfer money in the revolving fund or an additional state revolving fund to an operating fund, but the board may transfer money in an operating fund to the revolving fund or additional state revolving fund to which the operating fund relates.

(d) Money in an operating fund shall be invested in authorized investments as provided by board order, resolution, or rule.

(e) The board may agree with the holder of a bond the proceeds of which will be deposited in the revolving fund or an additional state revolving fund that the board will use money in an operating fund only as provided by this section.

Added by Acts 1995, 74th Leg., ch. 281, Sec. 1, eff. June 5, 1995.

Sec. 15.610. LINKED DEPOSIT. A linked deposit is a deposit governed by a written deposit agreement between the board and an eligible lending institution that provides that:

(1) the eligible lending institution pay interest on the deposit at a rate determined by the board;

(2) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) the eligible lending institution agree to lend the value of the deposit to a person at a maximum rate that is the rate paid by the eligible lending institution to the board plus a maximum

of four percent.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.611. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish a nonpoint source pollution control linked deposit program in accordance with this subchapter.

(b) An eligible lending institution may participate in the program established under this section as provided by this subchapter.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.612. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the nonpoint source pollution control linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of a proposed nonpoint source pollution control project;

(2) review applications to determine if applicants are eligible and creditworthy; and

(3) submit the applications of eligible and creditworthy applicants to the executive administrator with a certification:

(A) of the interest rate applicable to each applicant by the eligible lending institution; and

(B) of the proposed project by the appropriate person as required by Section [15.613](#).

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.613. CERTIFICATION OF PROJECT. (a) An eligible lending institution must obtain from a director of a soil and water conservation district certification of an agricultural or silvicultural nonpoint source pollution control project proposed for the district. The certification must state that:

(1) the applicant of the proposed project has a water quality management plan certified by the State Soil and Water Conservation Board; and

(2) the project furthers or implements the plan.

(b) An eligible lending institution must obtain from the executive director certification of a proposed nonpoint source pollution control project that is not an agricultural or silvicultural nonpoint source pollution control project. The certification must state that the applicant's proposed project implements the state's nonpoint source pollution management plan.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.614. APPROVAL OR REJECTION OF APPLICATION. The board may approve or reject an application of an eligible lending institution to participate in the program. The board may delegate its authority to approve or reject an application to the executive administrator.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.615. DEPOSIT AGREEMENT. If the board approves an application of an eligible lending institution, the board and the eligible lending institution shall enter into a written deposit agreement. The agreement shall contain the conditions on which the linked deposit is made. On execution of the agreement, the board shall place a linked deposit from the revolving fund with the eligible lending institution in accordance with the agreement. A delay in payment or a default on a loan by an applicant does not affect the validity of the deposit agreement.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.616. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must lend money to an approved applicant in accordance with the deposit agreement and this subchapter. The eligible lending institution shall forward a

compliance report to the board in accordance with board rules. The board shall adopt rules regarding the compliance report.

(b) The board shall monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.617. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made to an approved applicant. A linked deposit is not an extension of the state's credit within the meaning of any state constitutional prohibition.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

Sec. 15.618. LIMITATIONS ON PROGRAM. (a) The maximum amount of a loan under the linked deposit program is \$250,000.

(b) The board may withdraw linked deposits from an eligible lending institution if the institution ceases to be either a state depository or a Farm Credit System institution headquartered in this state.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

SUBCHAPTER K. TEXAS WATER BANK

Sec. 15.701. DEFINITIONS. In this subchapter:

(1) "Deposit" means the placement of a water right or the right to use water in the water bank for transfer.

(2) "Depositor" means a person who deposits or has on deposit a water right in the water bank or trust.

(3) "Person" includes but is not limited to any individual, corporation, organization, government, or governmental subdivision or agency, including the board, business trust, estate, trust, partnership, association, and any other legal entity.

(4) "Transfer" means the conveyance of a water right or the right to use water under a water right in any of the following manners:

(A) the conveyance of legal title to a water right; or

(B) a contract or option contract to allow use of a water right.

(5) "Trust" means the Texas Water Trust.

(6) "Water bank" or "bank" means the Texas Water Bank.

(7) "Water right" means a right acquired or authorized under the laws of this state to impound, divert, or use state water, underground water, or water from any source to the extent authorized by law.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 2.13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 966, Sec. 2.14, eff. Sept. 1, 2001.

Sec. 15.702. CREATION OF BANK. The Texas Water Development Board shall establish the Texas Water Bank. The board shall administer the water bank to facilitate water transactions to provide sources of adequate water supplies for use within the State of Texas.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 2.14, eff. Sept. 1, 1997.

Sec. 15.703. OPERATION OF THE BANK; RULES. (a) The board may take all actions necessary to operate the water bank and to facilitate the transfer of water rights from the water bank for future beneficial use including but not limited to:

(1) negotiating a sale price and terms acceptable to the depositor and purchaser;

(2) maintaining a registry of water bank deposits and those water users in need of additional supplies;

(3) informing water users in need of additional supply of water rights available in the bank;

(4) encouraging water right holders to implement water

conservation practices and deposit the right to use the conserved water into the bank;

(5) establishing requirements for deposit of a water right into the water bank including minimum terms for deposit;

(6) purchasing, holding, and transferring water or water rights in its own name;

(7) establishing regional water banks;

(8) acting as a clearinghouse for water marketing information including water availability, pricing of water transactions, environmental considerations, and potential buyers and sellers of water rights;

(9) preparing and publishing a manual on structuring water transactions;

(10) accepting and holding donations of water rights to meet instream, water quality, fish and wildlife habitat, or bay and estuary inflow needs;

(11) entering into contracts with persons to pay for feasibility studies or the preparation of plans and specifications relating to water conservation efforts or to estimate the amount of water that would be saved through conservation efforts; and

(12) other actions to facilitate water transactions.

(b) The board may adopt rules necessary for implementation of the Texas Water Bank.

(c) The board may contract with any person to achieve the purposes of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.
Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 2.15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 61, Sec. 1, eff. May 10, 1999.

Sec. 15.7031. TEXAS WATER TRUST. (a) The Texas Water Trust is established within the water bank to hold water rights dedicated to environmental needs, including instream flows, water quality, fish and wildlife habitat, or bay and estuary inflows.

(b) The board, in consultation with the Parks and Wildlife Department and the commission, shall adopt rules governing the process for holding and transferring water rights.

(c) The dedication of any water rights placed in trust must

be reviewed and approved by the commission, in consultation with the board and the Parks and Wildlife Department. In addition, the Department of Agriculture may provide input to the commission, as appropriate, during the review and approval process for dedication of water rights.

(d) Water rights may be held in the trust for a term specified by contractual agreement or in perpetuity.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 2.16, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 456, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 979, Sec. 2, eff. June 18, 1999.

Sec. 15.704. TRANSFERS AND CONDITIONS. (a) A water right may be deposited in the water bank for an initial term of up to 10 years, unless otherwise held in the Texas Water Trust as established under Section 15.7031 of this code, during which time the water right is exempt from cancellation by the commission under the terms of Subchapter E of Chapter 11 of this code. A water right is exempt from cancellation under this subsection only once even if it has been transferred or redeposited.

(b) The commission may not bring a cancellation action under Subchapter E of Chapter 11 of this code for a 10-year period following commission approval of any necessary actions relating to a water right which has been transferred while on deposit in the water bank.

(c) A contract or option contract to allow use of a water right under this subchapter:

(1) may include a requirement that the purchaser show diligence in pursuing feasible and practicable alternative water supplies; and

(2) does not vest any right in the purchaser beyond the stated terms and conditions of the contract or option contract.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 2.17, eff. Sept. 1, 1997.

Sec. 15.705. FEES. (a) The board may charge a transaction fee per transfer not to exceed one percent of the value of the water

or water right received into or transferred from the water bank to cover expenses of the board in operating the water bank.

(b) The board shall place the fees in the water bank account of the water assistance fund where they shall be separately accounted for and used, with interest, only for the administration and operation of the water bank by the board.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 1999, 76th Leg., ch. 61, Sec. 2, eff. May 10, 1999.

Sec. 15.706. REPORTS. The commission and the board shall provide ready access by the other agency through manual or computer capabilities to all water rights permits, final water rights decisions, applications, amendments, contracts, computerized files, computer programs, and other information related to water rights and to the operation of the water bank. The commission shall provide the board with all notices of proposed water rights actions.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

Sec. 15.707. WATER BANK ACCOUNT. (a) The water bank account is created as a special account in the water assistance fund and is composed of:

- (1) money appropriated to the board for the program;
- (2) fees collected by the board under this subchapter;
- (3) money transferred to the account from the water assistance fund in Section [15.011\(c\)](#) of this code;
- (4) grants, contracts, gifts, or other such funds that the board may receive relating to this subchapter;
- (5) money received from the transfer of water or water rights held in the board's name in the bank; and
- (6) interest earned on the investment of money in the account.

(b) The money in the account may be used only for the administration and operation of the water bank by the board under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 1999, 76th Leg., ch. 61, Sec. 3, eff. May 10, 1999.

Sec. 15.708. OTHER TRANSFERS. Nothing in this subchapter shall prevent the sale or purchase of water or water rights by or through persons or entities outside of the water bank or the creation and operation of water banks by other persons to the extent allowed by law.

Added by Acts 1993, 73rd Leg., ch. 647, Sec. 1, eff. Aug. 30, 1993.

SUBCHAPTER L. PLUMBING IMPROVEMENT LOANS

Sec. 15.731. DEFINITIONS. In this subchapter:

(1) "Fund" means the plumbing loan fund.

(2) "Plumbing assistance loan" means a loan provided by the board to a political subdivision for the political subdivision's plumbing improvement loan program.

(3) "Plumbing improvement loan" means a loan provided by a political subdivision to an individual under this subchapter.

(4) "Political subdivision" means a county, a municipality, a nonprofit member-owned, member-controlled water supply corporation organized and operating under Chapter 67, or a district or authority created and operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(5) "Water conservation" has the meaning assigned by Section 17.921 of this code.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.57, eff. Sept. 1, 1999.

Sec. 15.732. PLUMBING LOAN FUND. (a) The plumbing loan fund is created.

(b) The fund is held separately from other funds outside the state treasury. The board shall keep and maintain the fund and any accounts established in the fund.

(c) At the direction of the board, the fund or accounts in the fund may be kept and held in escrow and in trust by the comptroller for and on behalf of the board. If the fund or accounts in the fund are held in escrow and in trust by the comptroller, the

fund or accounts may be used only as provided by this subchapter and, pending their use, shall be invested in authorized investments as provided by any order, resolution, or rule of the board.

(d) Legal title to money and investments in the fund is in the board unless or until paid out as provided by this subchapter or rules of the board.

(e) The comptroller, as custodian, shall administer the funds strictly and solely as provided by this subchapter and in the orders, resolutions, and rules of the board, and the state shall take no action with respect to the fund other than that specified in this subchapter, an agreement made with the Environmental Protection Agency or another federal agency, applicable federal requirements, and the rules of the board.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 20.04, eff. Sept. 1, 1997.

Sec. 15.733. ADMINISTRATION AND OPERATION OF FUND. (a) The board shall administer the fund in accordance with state law, rules of the board, and any federal requirements imposed because of a grant of money to the fund by an agency of the federal government.

(b) The board may execute agreements with the Environmental Protection Agency or any other federal agency to establish and administer the fund and may discharge the duties and responsibilities required for the administration of the fund.

(c) The fund consists of money derived from federal grants, from earnings on the investment of money credited to the fund, and, at the board's discretion, from any other available source.

(d) The board shall deposit money received for repayment of a plumbing assistance loan made to a political subdivision in the fund.

(e) At the direction of the governor, any money in the fund may be transferred to the state water pollution control revolving fund under Subchapter J of this chapter.

(f) The fund remains available in perpetuity for providing loans under this subchapter, except to the extent that the fund may be reduced or eliminated as provided by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Sec. 15.734. USE OF FUND. The board may use money in the fund, unless prohibited by an agreement made with a federal agency under this subchapter, to:

- (1) make a plumbing assistance loan;
- (2) administer the fund; and
- (3) grant or lend money to a political subdivision to defray the political subdivision's expenses incurred in administering a plumbing improvement loan program.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Sec. 15.735. APPLICATION SUBMISSION AND APPROVAL. (a) A political subdivision located in the county of Brewster, Cameron, El Paso, Hidalgo, Hudspeth, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, or Zapata in which residences do not have water or wastewater facilities that meet minimum standards established by the commission or in any other area designated by federal law to benefit from the fund may submit to the board an application for a plumbing assistance loan in accordance with rules adopted by the board. The application must include:

- (1) the legal name of the political subdivision and a citation to the law under which it operates and was created;
- (2) a description of the water conservation methods to be used in the provision of water and wastewater service in the area the political subdivision proposes to affect by its plumbing improvement loan program;
- (3) a map showing the location of the area the political subdivision proposes to affect by its plumbing improvement loan program;
- (4) a description of the subdivision's proposed plumbing improvement loan program; and
- (5) other information as required by board rule.

(b) The board may approve a plumbing assistance loan to a political subdivision only if the political subdivision is in a county that has adopted the model rules developed under Section 16.343 of this code. The board may approve a plumbing assistance

loan to a municipality only if the municipality has adopted the model rules developed under Section 16.343 of this code.

(c) The board may approve a plumbing assistance loan to a political subdivision only if the political subdivision is, or is in an area within the jurisdiction of, an authorized agent of the commission under Subchapter C, Chapter 366, Health and Safety Code.

(d) The board may not approve an application for a plumbing assistance loan to a political subdivision unless the board finds that the political subdivision is financially capable of managing a plumbing improvement loan program and that the public interest will be served by the plumbing assistance loan.

(e) The board shall set interest rates to be charged to political subdivisions on plumbing assistance loans.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.287, eff. Sept. 1, 1995.

Sec. 15.736. POLITICAL SUBDIVISION PLUMBING IMPROVEMENT LOAN PROGRAM ADMINISTRATION; PLUMBING ASSISTANCE LOAN REPAYMENT.

(a) A political subdivision that receives a plumbing assistance loan shall establish and administer a program to make plumbing improvement loans to individuals at an interest rate lower than the current market rate, including charging no interest.

(b) A political subdivision may use the proceeds from a plumbing assistance loan to make a plumbing improvement loan to be used to pay:

(1) costs to connect a residence to a water distribution system;

(2) costs to provide yard service connections;

(3) costs to provide a residence with indoor plumbing facilities and fixtures;

(4) costs of connecting a residence to a sewer collection system or of providing a residence with a suitable on-site wastewater disposal system for the residence to meet applicable county or municipal code requirements;

(5) costs of building improvements or correction of building deficiencies necessary to allow plumbing to be installed

in a residence;

(6) necessary connection fees and permit fees; or

(7) necessary costs of design related to plumbing improvements.

(c) The political subdivision shall repay its plumbing assistance loan from the money it receives as repayment of plumbing improvement loans it has made. To the extent the political subdivision is unable to collect the payments on its plumbing improvement loans made from the proceeds of a plumbing assistance loan, the political subdivision is not obligated to repay a plumbing assistance loan.

(d) A political subdivision shall use all reasonable means to collect payments on plumbing improvement loans. The board may bring a mandamus action in a district court in Travis County or may use any other legal means to compel a political subdivision to take action to collect plumbing improvement loan payments.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

Sec. 15.737. RULES. The board may adopt rules necessary to carry out this subchapter.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 6, eff. June 7, 1991.

SUBCHAPTER M. HYDROGRAPHIC SURVEY PROGRAM

Sec. 15.801. DEFINITIONS. In this subchapter:

(1) "Account" means the hydrographic survey account established under Section 15.802 of this code.

(2) "Program" means the hydrographic survey program established under this subchapter.

(3) "Survey" means a hydrographic survey performed by the board under Section 15.804 of this code.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.062, eff. Aug. 12, 1991.

Sec. 15.802. HYDROGRAPHIC SURVEY ACCOUNT. The hydrographic survey account is created as a special account in the water assistance fund and is composed of:

- (1) money appropriated to the board for the program;
- (2) fees collected by the board under this subchapter;
- (3) money transferred to the account from the water assistance fund under Section 15.011(b) of this code; and
- (4) interest earned on the investment of money in the account.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.062, eff. Aug. 12, 1991.

Sec. 15.803. USE OF ACCOUNT. Money in the account may be used only to pay the costs of surveys, the costs of insurance for watercraft and capital equipment, and the costs of capital equipment and personnel necessary to administer the program.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.062, eff. Aug. 12, 1991. Amended by Acts 1993, 73rd Leg., ch. 477, Sec. 7, eff. Aug. 30, 1993.

Sec. 15.804. HYDROGRAPHIC SURVEYS. (a) On the request of a political subdivision or agency of this state or a neighboring state or a federal agency, the board may perform a hydrographic survey in this state or outside of this state if the information collected will benefit this state. The board may perform a survey under this section:

- (1) to determine:
 - (A) reservoir storage capacity;
 - (B) sedimentation levels;
 - (C) rates of sedimentation;
 - (D) projected water supply availability; or
 - (E) potential mitigative measures;
- (2) to conduct other bathymetric studies; or
- (3) to collect information relating to water-bearing formations.

(b) The board by rule shall prescribe fees for surveys performed under this section in an amount adequate to pay the necessary and reasonable costs of the program.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.062, eff. Aug. 12, 1991. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 21,

eff. Sept. 1, 2001.

Sec. 15.805. RULES. The board may adopt any rules reasonably necessary to administer the program.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.062, eff. Aug. 12, 1991.

SUBCHAPTER N. AQUATIC VEGETATION MANAGEMENT FUND

Sec. 15.851. DEFINITIONS. In this subchapter:

(1) "Approved local plan" means a local plan authorized by Section 11.083, Parks and Wildlife Code, that has been approved by the Parks and Wildlife Commission, the Texas Natural Resource Conservation Commission, and the Department of Agriculture as required by Section 11.083, Parks and Wildlife Code.

(2) Notwithstanding Section 15.001, "fund" means the aquatic vegetation management fund established under this subchapter.

(3) Notwithstanding Section 15.001, "political subdivision" means a municipality, a county, a water district, or a state agency.

(4) "Water district" means a conservation and reclamation district or an authority created under authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, that has jurisdiction over a public body of surface water. The term does not include a navigation district or a port authority.

Added by Acts 1999, 76th Leg., ch. 1461, Sec. 2, eff. Sept. 1, 1999.

Sec. 15.852. CREATION OF FUND. (a) The aquatic vegetation management fund is a special account in the water assistance fund.

(b) The fund consists of:

(1) money appropriated to the board for the program established under this subchapter and Subchapter G, Chapter 11, Parks and Wildlife Code;

(2) money transferred by the board from other accounts in the water assistance fund under Section 15.011(b); and

(3) interest earned on the investment of money in the fund.

Added by Acts 1999, 76th Leg., ch. 1461, Sec. 2, eff. Sept. 1, 1999.

Sec. 15.853. USE OF FUND. (a) Money in the fund may be used only for the following purposes, in the following order of priority:

(1) grants to the Parks and Wildlife Department:

(A) to develop a state aquatic vegetation management plan in coordination with the Texas Natural Resource Conservation Commission, the Department of Agriculture, water districts and other political subdivisions with jurisdiction over public bodies of surface water, and public drinking water providers, as required by Section 11.082, Parks and Wildlife Code; or

(B) for research, outreach, and educational activities that relate to vegetation control;

(2) grants to political subdivisions to develop local aquatic vegetation management plans that conform to the state aquatic vegetation management plan, as authorized by Section 11.083, Parks and Wildlife Code; and

(3) grants to political subdivisions to manage aquatic vegetation infestations under the state plan or the approved local plan adopted by the political subdivision.

(b) The amount of funding for the purposes authorized by Subsection (a) may not exceed amounts equal to the following percentages of any biennial appropriation to the board for use under this subchapter:

(1) 30 percent, for purposes authorized by Subsection (a)(1); and

(2) 70 percent, for purposes authorized by Subsections (a)(2) and (3), of which not more than 35 percent may be used for purposes authorized by Subsection (a)(3) using chemical treatments.

Added by Acts 1999, 76th Leg., ch. 1461, Sec. 2, eff. Sept. 1, 1999.

Sec. 15.854. RULES. The board shall adopt rules necessary

to administer this subchapter, including rules establishing procedures for application for and award of grants, distribution of grants, and administration of grants and the grant program established under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1461, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER O. PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE
FOR DISADVANTAGED RURAL COMMUNITIES

Sec. 15.901. DEFINITIONS. In this subchapter:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance fund.

(2) Repealed by Acts 2005, 79th Leg., Ch. 1151, Sec. 17(1), eff. June 18, 2005.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000;

(B) any portion of a political subdivision with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

(4) "Disadvantaged rural community" means a rural community with a median household income that is not greater than 75 percent of the median state household income for the most recent year for which the applicable statistics are available.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 17(1), eff. June 18, 2005.

Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND WASTEWATER FINANCIAL ASSISTANCE FUND. (a) The disadvantaged rural

community water and wastewater financial assistance fund is an account in the water assistance fund.

(b) The fund consists of:

(1) money transferred to the fund from the water assistance fund under Section 15.011(b);

(2) proceeds from the sale of political subdivision bonds by the board to the Texas Water Resources Finance Authority as provided by Section 17.0871; and

(3) repayments of loans made from the fund.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 3, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 4, eff. June 18, 2005.

Sec. 15.903. FINANCIAL ASSISTANCE. (a) The fund may be used by the board to provide grants or loans of financial assistance to political subdivisions or water supply corporations for the construction, acquisition, or improvement of water and wastewater projects to provide service to disadvantaged rural communities.

(b) The board may make financial assistance available to a political subdivision or water supply corporation by entering into a grant agreement or a loan agreement and promissory note with the subdivision or corporation, as provided by this subchapter. A political subdivision or water supply corporation may apply for and accept the financial assistance.

(c) The loan agreement must provide for the payment of principal and interest on the debt incurred for the project at a rate to be determined by the board.

(d) The loan agreement must provide for the issuance of a promissory note payable to the board to evidence the obligation of the political subdivision or water supply corporation to repay the loan made in accordance with the terms of the loan agreement.

(e) Repealed by Acts 2005, 79th Leg., Ch. 1151, Sec. 17(2), eff. June 18, 2005.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 5, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 17(2), eff. June 18, 2005.

Sec. 15.904. USE OF SALES TAX AS LOAN SECURITY. (a) A political subdivision or water supply corporation may pledge a percentage of its revenue to the payment of debt incurred under a loan agreement entered into with the board under this subchapter. A municipality or county may pledge a percentage of the sales and use tax revenue received under Chapter 321 or 323, Tax Code, as applicable, to the payment of debt incurred under a loan agreement entered into with the board under this subchapter if a majority of the voters voting at an election called and held for that purpose authorize the municipality or county to pledge a portion of that revenue for that purpose.

(b) Sections 321.506, 321.507, and 323.505, Tax Code, do not apply to taxes pledged under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 6, eff. June 18, 2005.

Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY ATTORNEY GENERAL. (a) Before a loan agreement may become effective, a record of the proceedings of the board and the political subdivision or water supply corporation authorizing the execution of the loan agreement, the loan agreement, the promissory note, and any contract providing revenue or security to pay the promissory note must be submitted to the attorney general for review and approval.

(b) If the attorney general finds that the loan agreement

and the promissory note are valid and binding obligations of the political subdivision or water supply corporation, the attorney general shall approve the documents and deliver them to the comptroller, the board, and the subdivision or corporation, together with a copy of the attorney general's legal opinion stating that approval.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 7, eff. June 18, 2005.

Sec. 15.906. REGISTRATION. On receipt of the documents required by Section 15.905(b), the comptroller shall register the record of the proceedings relating to the execution of a loan agreement.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Sec. 15.907. VALIDITY AND INCONTESTABILITY. On approval by the attorney general and registration by the comptroller, the loan agreement, the promissory note, a contract providing revenue or security, and any other obligation evidencing the debt are incontestable in a court and are valid, binding, and enforceable according to their terms.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Sec. 15.909. RULES. The board shall adopt necessary rules to administer this subchapter, including rules establishing procedures for application for and award of loans or grants.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 8, eff. June 18, 2005.

Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation must include:

- (1) its name and its principal officers;
- (2) a citation of the law under which the subdivision or corporation operates and was created;
- (3) a description of the water or wastewater project for which the financial assistance will be used;
- (4) the total cost of the project;
- (5) the amount of state financial assistance requested;
- (6) the plan for repaying any loan provided by the board for the project; and
- (7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation has a program of water conservation, the subdivision or corporation shall state in the application that the subdivision or corporation has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

- (1) the median household income of the disadvantaged rural community; and
- (2) the level of community support for the project.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 9, eff. June 18, 2005.

Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may not release funds for the construction phase of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that the political subdivision or water supply corporation proposing surface water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

(2) that the subdivision or corporation proposing groundwater development has the right to use water that the project will provide.

(b) If the political subdivision or water supply corporation includes a proposal for a wastewater treatment project, the board may not release funds for the project construction until the subdivision or corporation has received a permit for the construction and operation of the project and approval of the plans and specifications for the project in a manner that will satisfy commission requirements for design criteria and permit conditions that apply to construction activities.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. [3029](#)), Sec. 10, eff. June 18, 2005.

Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION.

(a) In acting on an application for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision or water supply corporation from all sources for any necessary repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) any other factors that the board considers relevant.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund for a project recommended through the state and regional water planning processes under Sections 16.051 and 16.053 if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 11, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 891 (S.B. 370), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 983 (H.B. 1732), Sec. 2, eff. September 1, 2011.

Sec. 15.913. APPROVAL OF APPLICATION. The board by resolution may approve an application for a loan or grant if, after considering the factors listed in Section 15.912 and any other relevant factors, the board finds that:

(1) the public interest requires state participation in the project; and

(2) the revenue or taxes pledged by the political subdivision or water supply corporation will be sufficient to meet all the obligations assumed by the subdivision or corporation during the period of any loan provided by the board.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 12, eff. June 18, 2005.

Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A political subdivision or water supply corporation receiving financial assistance under this subchapter shall require in all contracts for the construction of a project that:

(1) each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) each contractor awarded a construction contract furnish performance and payment bonds as follows:

(A) the performance bond must include guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds must be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year after the date of approval by the engineer of the subdivision or corporation;

(3) payment be made in partial payments as the work progresses;

(4) each partial payment not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the subdivision or corporation with approval of the executive administrator;

(5) payment of the retainage remaining due on completion of the contract be made only after:

(A) approval by the engineer for the subdivision or corporation as required under the bond proceedings;

(B) approval by the subdivision or corporation by a resolution or other formal action; and

(C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices;

(6) no valid approval be granted unless the work done under the contract has been completed and performed in a

satisfactory manner according to approved plans and specifications; and

(7) labor from inside the disadvantaged rural community be used to the extent possible.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 13, eff. June 18, 2005.

Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political subdivision or water supply corporation shall file with the board a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract must contain or have attached to it the specifications, plans, and details of all work included in the contract.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 14, eff. June 18, 2005.

Sec. 15.916. INSPECTION OF PROJECTS. (a) The board may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Sec. 15.917. ALTERATION OF PLANS. After the executive administrator approves the engineering plans, a political subdivision or water supply corporation may not make any substantial or material alteration in the plans unless the

executive administrator authorizes the alteration. The executive administrator shall review and approve or disapprove plans and specifications for all sewage collection, treatment, and disposal systems for which financial assistance is provided from the fund in a manner that will satisfy commission requirements for design criteria and permit conditions that apply to construction activities.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 15, eff. June 18, 2005.

Sec. 15.918. CERTIFICATE OF APPROVAL. The executive administrator may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to the approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER SUPPLY CORPORATIONS. Political subdivisions or water supply corporations that receive financial assistance from the fund are granted all necessary authority to enter into grant agreements or loan agreements and issue promissory notes in connection with the financial assistance granted under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1151 (H.B. 3029), Sec. 16, eff. June 18, 2005.

SUBCHAPTER P. COLONIA SELF-HELP PROGRAM

Sec. 15.951. DEFINITIONS. In this subchapter:

(1) "Account" means the colonia self-help account.

(2) "Colonia" means a geographic area that:

(A) is an economically distressed area as defined by Section 17.921;

(B) is located in a county any part of which is within 50 miles of an international border; and

(C) consists of at least 11 dwellings, or of at least a lower number of dwellings as specified by the board for which the board determines that a self-help project will be cost-effective, that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(2-a) "Nonprofit organization" means an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), Internal Revenue Code of 1986.

(2-b) "Political subdivision" has the meaning assigned by Section 17.921.

(3) "Program" means the colonia self-help program established under this subchapter.

(4) "Retail public utility" has the meaning assigned by Section 13.002.

(5) "Self-help project" means a project in which the people who will benefit from the project actively participate.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 15, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 60 (S.B. 1371), Sec. 1, eff. September 1, 2009.

Sec. 15.952. CREATION OF ACCOUNT. (a) The colonia self-help account is an account in the water assistance fund that may be used by the board only for the purposes of this subchapter.

(b) The account consists of:

(1) money transferred by the legislature directly to

the account;

(2) money transferred at the board's discretion from the fund; and

(3) gifts, grants, or donations to the account.

(c) Sections [403.095](#) and [404.071](#), Government Code, do not apply to the account.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 6, eff. June 20, 2003.

Sec. 15.953. USE OF ACCOUNT. (a) The board may use funds in the account to reimburse a political subdivision or a nonprofit organization for eligible expenses incurred in a self-help project that results in the provision of adequate water or wastewater services to a colonia. Eligible expenses under this subsection include:

(1) construction expenses;

(2) facility planning expenses;

(3) platting expenses;

(4) surveying expenses;

(5) engineering expenses;

(6) equipment expenses; and

(7) other expenses necessary to provide water or wastewater services to the colonia, as determined appropriate by the board.

(b) The board may award a grant under the program directly to a political subdivision or nonprofit organization to reimburse the subdivision or organization for expenses incurred in a self-help project described by Subsection (a). If the board determines that a retail public utility described by Section [15.955](#)(8) has made a commitment to the self-help project sufficient to ensure that retail water or wastewater service will be extended to the colonia, the board may make an advance of grant funds. An advance under this subsection is subject to the terms determined by the board and may not exceed 10 percent of the total amount of the grant.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1,

2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 60 (S.B. [1371](#)), Sec. 2, eff. September 1, 2009.

Sec. 15.954. ELIGIBLE POLITICAL SUBDIVISIONS AND NONPROFIT ORGANIZATIONS. To be eligible to receive a grant under the program, a political subdivision or a nonprofit organization must:

(1) demonstrate work experience relevant to extending retail water or wastewater utility service to colonias in coordination with retail public utilities; and

(2) develop a plan that requires self-help project beneficiaries to actively participate in the implementation of the project, in coordination with a retail public utility described by Section [15.955](#)(8).

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 60 (S.B. [1371](#)), Sec. 3, eff. September 1, 2009.

Sec. 15.955. GRANT APPLICATION. An eligible political subdivision or nonprofit organization must apply to the board for a grant under the program before incurring any expense associated with a self-help project described by Section [15.953](#)(a). The application must include:

(1) the name of the political subdivision or nonprofit organization, the names of the political subdivision's authorized representative or the nonprofit organization's principal officers, and verification of the nonprofit organization's 501(c)(3) status;

(2) a description of the project area, the anticipated number of water and wastewater connections to be made, and the anticipated number of colonia residents to be served;

(3) a description of the existing water and wastewater facilities in the colonia;

(4) a description of the project and the aspect of the project for which the grant will be used;

(5) a description of the anticipated participation in the project by residents of the colonia;

(6) the estimated total cost of both the project and the aspect of the project for which the grant will be used;

(7) the amount of the grant that is requested from the account and the sources of funding for the entire project;

(8) from a retail public utility authorized to provide water or wastewater services to the colonia, a resolution in which the retail public utility:

(A) agrees to inspect the project during and after construction to ensure the adequacy of the project; and

(B) commits to provide the water or wastewater services that the project intends to use; and

(9) any other information required by the board.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 60 (S.B. [1371](#)), Sec. 4, eff. September 1, 2009.

Sec. 15.956. BOARD CONSIDERATIONS IN EVALUATING GRANT APPLICATION. In evaluating an application for a grant under the program, the board shall consider:

(1) the number of colonia residents to be served by the self-help project;

(2) the capability of the political subdivision or nonprofit organization to complete the self-help project in a timely manner;

(3) the quality of any projects previously completed by the applicant; and

(4) the commitment demonstrated by the retail public utility to provide water or wastewater services to the colonia on completion of the project.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 60 (S.B. [1371](#)), Sec. 5, eff.

September 1, 2009.

Sec. 15.957. ACTION ON GRANT APPLICATION. (a) Not later than the 60th day after the date the board receives a complete application for a grant under the program, the board by written resolution shall:

- (1) approve the application; or
- (2) disapprove the application.

(b) On approval of an application, the board shall authorize the executive administrator of the board to execute a contract with the applicant for a grant to reimburse eligible expenses. The contract may provide a budget, schedule, terms for payment of funds, and any other terms the board or its executive administrator considers appropriate.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

Sec. 15.958. RULES. The board shall adopt rules necessary to administer the program established under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 23, eff. Sept. 1, 2001.

SUBCHAPTER Q. WATER INFRASTRUCTURE FUND

Sec. 15.971. DEFINITIONS. In this subchapter:

(1) "Eligible political subdivision" means a city, county, district, or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, including a groundwater district with a groundwater management plan certified by the board under Section 36.1072, any other political subdivision of the state, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 67.

(2) "Fund" means the water infrastructure fund.

(3) "Metropolitan statistical area" means an area so designated by the United States Office of Management and Budget.

(4) "Political subdivision bonds" means bonds or other

obligations issued by a political subdivision to fund a project and purchased by the board from money in the fund.

(5) "Project" means any undertaking or work, including planning and design activities and work to obtain regulatory authority, to conserve, mitigate, convey, and develop water resources of the state, including any undertaking or work done outside the state that the board determines will result in water being available for use in or for the benefit of the state.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.901 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 574 (S.B. [2312](#)), Sec. 1, eff. September 1, 2009.

Sec. 15.972. FINDINGS. The legislature finds that:

(1) the creation of the fund and the administration of the fund by the board will encourage the conservation and development of the water resources of the state;

(2) the use of the fund is in furtherance of the public purpose of conserving and developing the water resources of the state; and

(3) the use of the fund for the purposes provided by this subchapter is for the benefit of both the state and the political subdivisions to which the board makes financial assistance available in accordance with this subchapter and constitutes a program under, and is in furtherance of the public purposes set forth in, Section [52-a](#), Article III, Texas Constitution.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.902 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water infrastructure fund is a special fund in the state treasury to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to

pay for the implementation of water projects recommended through the state and regional water planning processes under Sections [16.051](#) and [16.053](#).

(b) The fund consists of:

- (1) appropriations from the legislature;
- (2) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;
- (3) repayments of loans made from the fund;
- (4) interest earned on money credited to the fund;
- (5) depository interest allocable to the fund;
- (6) money from gifts, grants, or donations to the fund;
- (7) money from revenue bonds or other sources designated by the board;
- (8) proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund; and
- (9) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section [15.434](#).

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 1, eff. June 20, 2003. Renumbered from Water Code Sec. 15.903 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. [4](#)), Sec. 2.03, eff. November 5, 2013.

Sec. 15.974. USE OF WATER INFRASTRUCTURE FUND. (a) The board may use the fund:

- (1) to make loans to political subdivisions at or below market interest rates for projects;
- (2) to make grants, low-interest loans, or zero interest loans to political subdivisions for projects to serve areas outside metropolitan statistical areas in order to ensure that the projects are implemented, or for projects to serve economically distressed areas;

(3) to make loans at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a project;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the board if the proceeds of the sale of the bonds will be deposited in the fund; and

(5) to pay the necessary and reasonable expenses of the board in administering the fund.

(b) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.973(b)(9) if the requirements of Section 15.435 are satisfied.

(c) Principal and interest payments on loans made under Subsection (a)(3) may be deferred for a maximum of 10 years or until construction of the project is completed, whichever is earlier.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.904 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 302 (S.B. 509), Sec. 1, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.04, eff. November 5, 2013.

Sec. 15.975. APPROVAL OF APPLICATIONS. (a) On review and recommendation by the executive administrator, the board by resolution may approve an application if the board finds that:

(1) the application and the assistance applied for meet the requirements of this subchapter and board rules;

(2) the revenue or taxes, or both the revenue and taxes, pledged by the applicant will be sufficient to meet all the obligations assumed by the political subdivision; and

(3) the project will meet water needs in a manner consistent with the state and regional water plans as required by Section 16.053(j), unless otherwise specified by an act of the legislature.

(b) For an application under this subchapter, a program of water conservation through a more effective use of water shall be required in the same manner as for approval of an application for financial assistance under Section [15.106](#).

(c) The board may deliver funds for the part of a loan or grant for a project relating to surface water development, other than for planning and design costs, permitting costs, and other costs associated with federal and state regulatory activities with respect to a project, only if the executive administrator makes a written finding that the applicant:

(1) has the necessary water rights authorizing the applicant to appropriate and use the water that the project will provide, if the applicant is proposing surface water development; or

(2) has the right to use water that the project will provide, if the applicant is proposing groundwater development.

(d) The board may not approve an application if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section [16.053\(q\)](#).

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.905 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 891 (S.B. [370](#)), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 983 (H.B. [1732](#)), Sec. 1, eff. September 1, 2011.

Sec. 15.9751. PRIORITY FOR WATER CONSERVATION. The board shall give priority to applications for funds for the implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation

savings by implementing the proposed project for which the financial assistance is sought.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.11, eff. September 1, 2007.

Sec. 15.976. APPLICABLE LAW. Subchapter E, Chapter 17, applies to financial assistance made available from the fund, except that the board may also execute contracts as necessary to evidence grant agreements.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.906 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Sec. 15.977. RULES. The board shall adopt rules necessary to carry out this subchapter, including rules establishing procedures for application for and for the award of financial assistance, for the investment of funds, and for the administration of the fund.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.907 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Sec. 15.978. SALE OF POLITICAL SUBDIVISION BONDS. (a) The board may sell or dispose of political subdivision bonds at the price and under the terms that the board determines to be reasonable.

(b) The board may sell political subdivision bonds without making a previous offer to the political subdivision that issued the bonds and without advertising, soliciting, or receiving bids for sale.

(c) Notwithstanding other provisions of this chapter, the board may sell to the Texas Water Resources Finance Authority or to the state water implementation revenue fund for Texas any political subdivision bonds purchased with money in the water infrastructure fund and may apply the proceeds of a sale in the manner provided by this section.

(d) Proceeds from the sale of political subdivision bonds

under this section shall be deposited in the fund for use as provided by Section 15.974.

(e) As part of a sales agreement with the Texas Water Resources Finance Authority, the board by contract may agree to perform the functions required to ensure that the political subdivision pays the debt service on political subdivision bonds sold and observes the conditions and requirements stated in those bonds.

(f) The board may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code, Sec. 15.908 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), 3(42), eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.05, eff. November 5, 2013.

Sec. 15.979. FUNDING FOR LOCAL ECONOMIC DEVELOPMENT. (a) The board may use the fund to provide financial assistance to an eligible political subdivision to enable the political subdivision to fund loans and grants for projects that conserve and develop the water resources of the political subdivision for the ultimate benefit of the public, and that develop and diversify its local economy, consistent with the terms and conditions set forth in a program adopted by the governing body of the political subdivision under authority granted by Section 15.980.

(b) The board may not purchase political subdivision bonds issued for the purposes described by Subsection (a) that are secured in whole or in part by a pledge of ad valorem taxes unless the political subdivision submits evidence satisfactory to the board that the issuance of the bonds has been approved by the citizens of the political subdivision voting at an election held for the purposes described in Section 15.980.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.909 and amended by Acts

2003, 78th Leg., ch. 1275, Sec. 2(142), 3(43), eff. Sept. 1, 2003.

Sec. 15.980. AUTHORITY TO ESTABLISH ECONOMIC DEVELOPMENT PROGRAMS. (a) An eligible political subdivision may establish economic development programs and make loans and grants of public funds to assist in providing projects within the political subdivision that conserve and develop the water resources of the political subdivision for the ultimate benefit of the public. The authority granted to a political subdivision to make loans and grants in accordance with this section constitutes a program in furtherance of the public purposes provided by Section 52-a, Article III, Texas Constitution.

(b) Financial assistance received from the fund may be used by an eligible political subdivision to make loans or grants to persons for projects that the political subdivision finds will conserve and develop the water resources of the political subdivision for the ultimate benefit of the public and assist in diversifying and developing the economy of the political subdivision and the state.

(c) In exercising the authority granted by this section, the governing body of an eligible political subdivision may determine the terms and conditions governing the loan or grant of money and determine whether to approve an agreement with a person who receives a loan or grant.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.910 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), eff. Sept. 1, 2003.

Sec. 15.981. CERTAIN OBLIGATIONS RESTRICTED. An eligible political subdivision may not sell or incur obligations to fund an economic development program established under authority granted by Section 15.980 that are payable in whole or in part from ad valorem taxes unless the residents of the political subdivision, voting at an election held for the purpose, approve the issuance of obligations to fund an economic development program for the provision of loans or grants to persons to construct projects that will conserve and develop the water resources of the political

subdivision for the ultimate benefit of the public and assist in developing and diversifying the local economy.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.01, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.911 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(142), 3(44), eff. Sept. 1, 2003.

SUBCHAPTER R. RURAL WATER ASSISTANCE FUND

Sec. 15.991. PURPOSE. The legislature finds that the rural areas of the state, characterized by small populations extended over disproportionately large service areas, require a means of financing water and water quality enhancement projects in addition to those established by other provisions of this chapter.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 3, eff. June 20, 2003. Renumbered from Water Code Sec. 15.951 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(143), eff. Sept. 1, 2003.

Sec. 15.992. DEFINITIONS. In this subchapter:

(1) "District" means a conservation or reclamation district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) "Federal agency" means an agency or other entity of the United States, including the United States Department of Agriculture or an agency or entity that is acting through or on behalf of that department.

(3) "Fund" means the rural water assistance fund.

(3-a) "Nonprofit water supply or sewer service corporation" means a corporation operating under Chapter 67.

(4) "Rural political subdivision" means:

(A) a nonprofit water supply or sewer service corporation, district, or municipality with a service area of 10,000 or less in population or that otherwise qualifies for financing from a federal agency; or

(B) a county in which no urban area exceeds 50,000 in population.

(5) "State agency" means an agency or other entity of

the state, including the Department of Agriculture and the Texas Department of Housing and Community Affairs and any agency or authority that is acting through or on behalf of the Department of Agriculture or the Texas Department of Housing and Community Affairs.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.02, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.952 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(143), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 64 (S.B. 360), Sec. 1, eff. September 1, 2011.

Sec. 15.993. FUND. The rural water assistance fund is a special fund in the state treasury. The fund consists of:

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

(2) repayment of principal and interest from loans made from the fund not otherwise needed as a source of revenue pursuant to Section 17.9615(b);

(3) money transferred by the board from any sources available;

(4) interest earned on the investment of money in the fund and depository interest allocable to the fund;

(5) money transferred to the fund from the water assistance fund in accordance with Section 15.011(b), including proceeds from the sale of political subdivision bonds by the board to the Texas Water Resources Finance Authority that are deposited in the water assistance fund as provided by Section 17.0871;

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

(7) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and

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

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 4, eff. June 20, 2003. Renumbered from Water Code Sec. 15.953 by Acts 2003, 78th

Leg., ch. 1275, Sec. 2(143), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 64 (S.B. 360), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.06, eff. November 5, 2013.

Sec. 15.994. USE OF FUND. (a) The fund may be used to provide low-interest loans to rural political subdivisions for:

(1) water or water-related projects and for water quality enhancement projects, including:

(A) the construction of infrastructure facilities for wholesale or retail water or sewer service;

(B) desalination projects;

(C) the purchase or lease of water well fields;

(D) property necessary for water well fields;

(E) the purchase or lease of rights to produce groundwater;

(F) onsite or wetland wastewater treatment facilities; and

(G) the interim financing of construction projects;

(2) water projects included in the state water plan or a regional water plan;

(3) development of groundwater sources and acquisition of water rights, including groundwater and surface water rights;

(4) the acquisition of retail public utilities as defined by Section 13.002;

(5) the acquisition of water supply or sewer service facilities or systems owned by municipalities or other political subdivisions;

(6) construction, acquisition, or improvement of water and wastewater projects to provide service to an economically distressed area;

(7) planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities

with respect to a project; and

(8) obtaining water or wastewater service supplied by other political subdivisions or financing the consolidation or regionalizing of neighboring political subdivisions, or both.

(b) The fund may be used to provide zero interest loans, negative interest loans, loan forgiveness, or grants for any purpose described by Subsection (a) under criteria developed by the board.

(c) The board may use money in the fund to contract for outreach, financial, planning, and technical assistance to assist rural political subdivisions in obtaining and using financing from any source for a purpose described by this section.

(d) The fund may be used to buy down interest rates on loans.

(e) A rural political subdivision may enter into an agreement with a federal agency, a state agency, or another rural political subdivision to submit a joint application for financial assistance under this subchapter.

(f) A nonprofit water supply or sewer service corporation is exempt from payment of any sales tax that may be incurred under other law or ordinance for any project financed by the fund.

(g) The fund may be used as a source of revenue for the payment of principal and interest on water financial assistance bonds issued by the board if the proceeds of the sale of these bonds will be deposited into the rural water assistance fund.

(h) The board may coordinate its review of an application submitted under this subchapter with a federal agency to avoid duplication of efforts and costs.

(i) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.993(7) if the requirements of Section 15.435 are satisfied.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 608, Sec. 5, eff. June 20, 2003. Renumbered from Water Code Sec. 15.954 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(143), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 64 (S.B. 360), Sec. 3, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.07, eff. November 5, 2013.

Acts 2017, 85th Leg., R.S., Ch. 118 (H.B. 544), Sec. 1, eff. May 26, 2017.

Sec. 15.995. FINANCIAL ASSISTANCE IN GENERAL. (a) The board shall adopt rules necessary to administer this subchapter, including rules establishing procedures for the application for and award of loans, the distribution of loans, the investment of funds, and the administration of loans and the fund.

(b) The board may not release from the fund money for the construction phase of parts of projects proposing surface water or groundwater development until the executive administrator makes a written finding that a rural political subdivision:

(1) has the necessary water right authorizing it to appropriate and use the water that the project will provide, if the rural political subdivision is proposing surface water development; or

(2) has the right to use water that the project will provide, if the rural political subdivision is proposing groundwater development.

(c) In passing on an application from a rural political subdivision for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project, the benefit of the project to the area, the relationship of the project to the overall state water needs, and the relationship of the project to the state water plan; and

(2) the availability of revenue to the rural political subdivision from all sources for the ultimate repayment of the cost of the water supply project, including all interest.

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

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

(2) the revenue or taxes pledged by the rural

political subdivision will be sufficient to meet all the obligations assumed by the rural political subdivision during the succeeding period of not more than 50 years.

(e) A program of water conservation for the more efficient use of water shall be required in the same manner as is required for approval of an application for financial assistance under Section [15.106](#).

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

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.02, eff. Sept. 1, 2001. Renumbered from Water Code Sec. 15.955 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(143), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 64 (S.B. [360](#)), Sec. 4, eff. September 1, 2011.

Sec. 15.996. LOANS TO NONPROFIT WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a) In addition to any other method of providing financial assistance authorized by this subchapter, the board may make financial assistance available to an applicant that is a nonprofit water supply or sewer service corporation by entering into a loan agreement with the applicant.

(b) To be eligible to receive financial assistance under this section, the applicant must:

(1) execute a promissory note for the full amount of the loan; and

(2) provide to the board an attorney's opinion stating that the applicant has the authority to incur the debt.

(c) An applicant for financial assistance under this section is not required to appoint or employ:

(1) a bond counsel; or

(2) a financial advisor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 64 (S.B. [360](#)), Sec. 5, eff. September 1, 2011.