

WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE C. WATER DEVELOPMENT

CHAPTER 17. PUBLIC FUNDING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 17.001. 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) "Development fund manager" means the development fund manager of the Texas Water Development Board.
- (6) "Political subdivision" means a state agency, a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party and any nonprofit water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).
- (7) "Water supply project" means:
  - (A) any engineering undertaking or work to conserve and develop water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, brush control, precipitation enhancement, desalinization, and other water storage and conservation projects, which may include flood storage, including underground storage projects, filtration and water treatment plants, including any system necessary to transport water from

storage to points of distribution or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers or to retail purchasers as authorized by Section 17.072(c) of this code, by the acquisition, by purchase of rights in water, by the drilling of wells, or for any one or more of these purposes or methods;

(B) any engineering 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 if such undertaking or work results in water being available for use in or for the benefit of Texas;

(C) any undertaking or work by Texas political subdivisions to conserve, convey, or develop water resources in areas outside Texas if such undertaking or work results in water being available for use in or for the benefit of Texas; or

(D) a channel storage reservoir located on an international boundary between Texas and Mexico that develops the water resources of Texas and the research, planning, and actions necessary to obtain regulatory authority at the local, state, and federal level.

(8) "Construction" means any one or more of the following:

(A) preliminary planning to determine the feasibility of a water supply project, treatment works, or flood control measures;

(B) engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions;

(C) the expense of any condemnation or other legal proceeding;

(D) erecting, building, acquiring, altering, remodeling, improving, or extending a water supply project, treatment works, or flood control measures; or

(E) the inspection or supervision of any of the items listed in this subdivision.

(9) "Treatment works" means any devices and systems

used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including:

(A) intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances;

(B) extensions, improvements, remodeling, additions, and alterations of items listed in Paragraph (A) of this subdivision;

(C) elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities;

(D) any works, including sites for works and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from treatment;

(E) any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste; or

(F) facilities to provide for the collection, control, and disposal of waste heat.

(10) "Water quality enhancement" means the construction of treatment works by political subdivisions with loans provided by water quality enhancement funds.

(11) "Water quality enhancement funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section [49-d-1](#), of the Texas Constitution, and proceeds from the sale of bonds dedicated to water quality enhancement purposes under Article III, Sections [49-d-2](#), [49-d-6](#), and [49-d-7](#), of the Texas Constitution.

(12) "Flood control funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Sections [49-d-2](#), [49-d-6](#), and [49-d-7](#), of the Texas Constitution and reserved for flood control purposes.

(13) "Floodplain management plan" means a comprehensive plan for flood control within a watershed, based on

analysis of alternative nonstructural and structural means of reducing flood hazards, including assessments of costs, benefits, and environmental effects and may include preliminary design of structural flood control projects.

(14) "Nonstructural flood control" includes measures such as:

(A) acquisition of floodplain land for use as public open space;

(B) acquisition and removal of buildings located in a floodplain; or

(C) relocation of residents of buildings removed from a floodplain.

(15) "Structural flood control" includes measures such as construction of storm water retention basins, enlargement of stream channels, beach nourishment, and modification or reconstruction of bridges.

(16) "Floodplain" means land subject to inundation by the 100-year-frequency flood.

(17) "Financial assistance" means any loan of funds from the water supply account, the water quality enhancement account, or the flood control account to a political subdivision for construction of a water supply project, including projects referenced in the state water plan, treatment works, or flood control measures through the purchase of bonds or other obligations of the political subdivision, and any loan of funds the source of which is the proceeds from water financial assistance bonds.

(18) "Bonds" means Texas Water Development Bonds authorized by the Texas Constitution.

(19) "Waste" has the same meaning as provided in Section 26.001 of this code.

(20) "Water development bonds" means the Texas Water Development Bonds authorized by Article III, Sections 49-c and 49-d, of the Texas Constitution and bonds dedicated to use for the purposes of those sections and for flood control purposes under Article III, Sections 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution.

(21) "Water quality enhancement bonds" means the Texas

Water Development Bonds authorized by Article III, Section 49-d-1, of the Texas Constitution and bonds dedicated to use for the purposes of that section by Article III, Sections 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution.

(22) "Lending rate" means the rate of interest established by the board as the lending rate.

(23) "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.

(24) "Regional facility" means a water supply, wastewater collection and treatment, flood control, or other system which incorporates multiple service areas or drainage areas into an areawide service facility thereby reducing the number of required facilities, or any system which serves an area that is other than a single county, city, special district, or other political subdivision of the state the specified size of which is determined by:

(A) population;

(B) number of governmental entities served;

(C) service capacity; or

(D) any combination of the factors listed in Paragraphs (A) through (C) of this subdivision.

Regional wastewater treatment facilities may also include those identified in the approved state water quality management plan and the annual updates to that plan.

(25) "Water financial assistance bonds" means the Texas Water Development Bonds authorized to be issued by Section 49-d-8, Article III, Texas Constitution, and dedicated to use for the purposes described in that section.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 7, Sec. 1, 3(2), (3), eff. March 24, 1987; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(57) eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 2; Acts 1989,

71st Leg., ch. 1062, Sec. 2; Acts 1991, 72nd Leg., ch. 295, Sec. 42, eff. June 7, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.065, eff. Aug. 12, 1991; Acts 1997, 75th Leg., ch. 1010, Sec. 5.04, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1010, Sec. 5.05.

Sec. 17.002. 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. 2.20. Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(78), (90), eff. Sept. 1, 1995.

Sec. 17.003. BOND REVIEW. (a) Bonds may not be issued under this chapter after January 1, 1988, and proceeds of bonds issued after January 1, 1988, may not be used to finance a project unless the issuance or project, as applicable, has been reviewed and approved by the bond review board.

(b) A member of the bond review board may not be held liable for damages resulting from the performance of the members' functions under this chapter.

(c) Water financial assistance bonds that have been authorized but have not been issued are not considered to be state debt payable from the general revenue fund for purposes of Section 49-j, Article III, Texas Constitution, until the legislature makes an appropriation from the general revenue fund to the board to pay the debt service on the bonds.

(d) In requesting approval for the issuance of bonds under this chapter, the executive administrator shall certify to the bond review board whether the bonds are reasonably expected to be paid from:

- (1) the general revenues of the state; or
- (2) revenue sources other than the general revenues of the state.

(e) The bond review board shall verify whether debt service on bonds to be issued by the board under this chapter is state debt

payable from the general revenues of the state, in accordance with the findings made by the board in the resolution authorizing the issuance of the bonds and the certification provided by the executive administrator under Subsection (d).

(f) Bonds issued under this chapter that are designed to be paid from the general revenues of the state shall cease to be considered bonds payable from those revenues if:

(1) the bonds are backed by insurance or another form of guarantee that ensures payment from a source other than the general revenues of the state; or

(2) the board demonstrates to the satisfaction of the bond review board that the bonds no longer require payment from the general revenues of the state and the bond review board so certifies to the Legislative Budget Board.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 7.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 983 (H.B. 1732), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1233 (S.B. 660), Sec. 12, eff. September 1, 2011.

#### SUBCHAPTER B. WATER DEVELOPMENT BONDS

Sec. 17.011. ISSUANCE OF WATER DEVELOPMENT BONDS. (a) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$400 million pursuant to Article III, Section 49-c and Section 49-d, of the Texas Constitution, and the issuance of additional negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to Article III, Section 49-d-1, of the Texas Constitution, not to exceed \$980 million pursuant to Article III, Section 49-d-2, of the Texas Constitution, not to exceed \$400 million pursuant to Article III, Section 49-d-6, of the Texas Constitution, and not to exceed \$500 million pursuant to Article III, Section 49-d-7, of the Texas Constitution.

(b) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount of not

to exceed the total principal amount the board has obligated the Texas Water Development Fund for the acquisition of storage facilities by the execution of a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, and to the extent the bond proceeds are utilized to reduce the board's obligation under a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, the bonds may not be considered in determining the aggregate amount of bonds issued under Article III, Sections 49-c, 49-d, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution, in addition to the contract with the United States or any of its agencies.

(c) Notwithstanding any other provision of this section, the board by resolution may issue water financial assistance bonds for any one or more of the purposes described in Section 49-d-8, Article III, Texas Constitution, in an aggregate principal amount not to exceed the amount of bonds authorized by Section 49-d-8, Article III, Texas Constitution, in accordance with the provisions of Subchapter L.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 133, Sec. 2.07; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 3; Acts 1989, 71st Leg., ch. 1062, Sec. 3; Acts 1997, 75th Leg., ch. 1010, Sec. 5.06, eff. Sept. 1, 1997.

Sec. 17.0111. DEDICATION OF CERTAIN BONDS. No more than \$250 million in principal amount of bonds authorized by Article III, Section 49-d-7, of the Texas Constitution, and issued under either that section or Article III, Section 49-d-8, of the Texas Constitution, may be dedicated to the purposes provided by Subchapter K .

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.14. Amended by Acts 1991, 72nd Leg., ch. 297, Sec. 1; Acts 1997, 75th Leg., ch. 1010, Sec. 5.07, eff. Sept. 1, 1997.

Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL



ASSISTANCE. (a) The board may issue not more than \$25 million in bonds dedicated under Section 17.0111 of this code and may issue not more than \$50 million in bonds authorized under Article III, Texas Constitution, during a fiscal year to provide financial assistance for water supply and sewer services as provided under Subchapter K of this chapter.

(b) On request of the board, the bond review board by resolution may waive during any state fiscal year the limits provided by Subsection (a) and authorize the board to issue an additional amount of bonds if the bond review board finds that the amount of bonds authorized for that state fiscal year has been exhausted or there is not a sufficient amount of bonds to meet needs of the program during the state fiscal year and that the public health and safety require immediate authorization of additional bonds. Before the bond review board adopts such a resolution, it shall give notice and hold a hearing to determine whether the limits should be waived and the authorization given.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.14. Amended by Acts 1993, 73rd Leg., ch. 844, Sec. 4, eff. Aug. 30, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 4, eff. September 1, 2005.

Sec. 17.012. DESCRIPTION OF BONDS. The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.013. SALE PRICE OF BONDS. The board may sell an installment or series of bonds at prices determined by the board.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.014. INTEREST ON BONDS. (a) The bonds of each issue shall bear interest payable annually or semiannually at the option of the board.

(b) The board may authorize bonds or notes to bear interest at a rate or rates not to exceed the maximum net effective interest rate allowed by law.

(c) The interest rates under Subsection (b) of this section may be fixed, variable, floating, adjustable, or otherwise, as determined in accordance with the resolution authorizing the issuance of the bonds or notes. The resolution may provide a formula, index, or contractual arrangement for the periodic determination of interest rates without the requirement of specific approval of each determination by the board.

(d) The resolution under which the bonds or notes are issued may delegate to one or more designated officers, employees, or agents of the board the authority to act on behalf of the board, while the bonds or notes remain outstanding, in fixing dates, prices, interest rates, interest payment periods, and other procedures specified in the resolution, so that, among other things, the interest on the bonds or notes may be adjusted by the officer, employee, or agent to permit the bonds or notes to be sold or resold in conjunction with secondary market transactions.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.015. FORM, DENOMINATION, PLACE OF PAYMENT. The board shall:

(1) determine the form of the bonds, including the form of any interest coupons to be attached;

(2) fix the denomination of the bonds; and

(3) fix the places of payment of the principal and interest.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.016. MATURITY OF BONDS. The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.017. REDEMPTION BEFORE MATURITY. In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.018. REGISTERED AND BEARER BONDS. The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.019. NOTICE OF BOND SALE. After the board decides to call for bids for the sale of bonds, the board shall publish an appropriate notice of the sale at least one time in one or more recognized financial publications of general circulation published within the state and one or more recognized financial publications published outside the state.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.020. COMPETITIVE BIDS. The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff.

Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.021. SECURITY FOR BIDS. The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum the board considers adequate as a forfeit guaranteeing acceptance of and payment for all bonds covered by the bids and accepted by the board.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.022. APPROVAL OF BONDS; REGISTRATION. Before bonds are delivered to the purchasers, the bonds and the record pertaining to their issuance shall be submitted to the attorney general for his approval. When the attorney general's approval is obtained, the bonds shall be registered in the office of the state comptroller.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.023. EXECUTION OF BONDS. The bonds shall be executed on behalf of the board as general obligations of the state in the following manner: the chairman of the board and the development fund manager shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the Secretary of State shall attest the bonds and impress on them the state seal.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.024. FACSIMILE SIGNATURES AND SEALS. The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board in executing the bonds and appurtenant coupons may use facsimile signatures and

facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board and the development fund manager.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.025. SIGNATURE OF FORMER OFFICER. If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.026. BONDS INCONTESTABLE. After approval by the attorney general, registration by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.027. PAYMENT BY COMPTROLLER. The comptroller shall pay the principal of the bonds as they mature and the interest as it becomes payable.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1423, Sec. 20.05, eff. Sept. 1, 1997.

Sec. 17.028. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of the bonds and performance of official duties prescribed by Article III, Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution and by this subchapter may be enforced in any

court of competent jurisdiction by mandamus or other appropriate proceeding.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1985, 69th Leg., ch. 133, Sec. 2.07; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 4; Acts 1989, 71st Leg., ch. 1062, Sec. 3.

Sec. 17.029. REFUNDING BONDS. The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and their accrued interest. The board may sell the refunding bonds and use the proceeds to retire the outstanding bonds issued under this chapter, exchange the refunding bonds for the outstanding bonds, or refund the bonds in the manner provided by any other applicable statute, including Chapter [1207](#), Government Code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1420, Sec. 8.406, eff. Sept. 1, 2001.

Sec. 17.030. BONDS NEGOTIABLE INSTRUMENTS. The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.031. BONDS NOT TAXABLE. Bonds issued under this chapter, the income from the bonds, and the profit made on their sale are free from taxation within the state.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.032. AUTHORIZED INVESTMENTS. Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.033. SECURITY FOR DEPOSIT OF FUNDS. Bonds issued under this chapter when accompanied by all appurtenant unmatured coupons are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political subdivision of the state at the par value of the bonds.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.034. MUTILATED, LOST, DESTROYED BONDS. The board may provide for the replacement of any mutilated, lost, or destroyed bond.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.035. 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 its bonds and other obligations, but this subchapter is wholly sufficient authority for the issuance of bonds 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 issuance of obligations under Chapter 1371, Government Code.

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

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.407, eff. Sept. 1, 2001.

#### SUBCHAPTER C. FUNDING PROVISIONS

Sec. 17.071. DISPOSITION OF MONEY RECEIVED. All money received by the board shall be deposited in the State Treasury and credited to the proper special fund as provided in this subchapter.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.072. DEVELOPMENT FUND. (a) The Texas Water Development Fund, referred to as the "development fund," is a special revolving fund in the State Treasury.

(b) Except as provided by Subsections (f), (h), (j), and (k) of this section, proceeds from the sale of water development bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes set out in Article III, Sections 49-c, 49-d, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water supply account," and other money for deposit therein as provided in this chapter shall be credited to the water supply account.

(c) The water supply account may be used for any water supply project and in any manner consistent with the provisions of the constitution, including retail distribution.

(d) Except as provided by Subsections (j) and (k) of this section, proceeds from the sale of water quality enhancement bonds,



together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes in Article III, Section 49-d-1, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water quality enhancement account," and other money for deposit therein as provided in this chapter shall be credited to the water quality enhancement account.

(e) The water quality enhancement account may be used for construction of treatment works in any manner consistent with the provisions of the constitution and this code.

(f) All proceeds from the sale of the \$400 million in water development bonds authorized by Article III, Section 49-d-2, of the Texas Constitution for the purposes of state participation in the acquisition and development of facilities, together with all proceeds, excluding accrued interest, from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes of the state participation program, shall be deposited in a special account designated as the state participation account created in the development fund. Other money designated for deposit in that account by this chapter and Chapter 16 of this code shall be deposited in the state participation account. Accrued interest from the proceeds of the sale, refunding, or prepayment of political subdivision bonds shall be deposited in the interest and sinking fund.

Text of subsec. (g) as amended by Acts 1987, 70th Leg., ch. 420, Sec. 4

(g) The state participation account may be used for any project authorized in Chapter 16 of this code and in any manner consistent with the constitution and this code.

Text of subsec. (g) as amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1

(g) The state participation account may be used for any

project defined by Chapter 16 of this code and in any manner consistent with the constitution and this code.

(h) All proceeds from the sale of the \$300 million in water development bonds authorized by Article III, Sections 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution for the purposes of flood control, together with all proceeds, excluding accrued interest, from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes of the flood control program, shall be deposited in a special account designated as the flood control account created in the development fund. Other money designated for deposit in that account by this chapter shall be deposited in the flood control account. Accrued interest from the proceeds of the sale, refunding, or prepayment of political subdivision bonds shall be deposited in the interest and sinking fund.

(i) The flood control account may be used for any project and in any manner consistent with the constitution and this code.

(j) Proceeds from the sale of bonds pursuant to Section 17.0111 of this code, together with proceeds, other than accrued interest, from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes provided by Subchapter K of this chapter, shall be deposited in a special account in the development fund designated as the economically distressed areas account, with other money for deposit in that account as provided by this chapter, the General Appropriations Act, or other law of this state. Money from gifts or grants from the United States government, local or regional governments, private sources, or other sources for the purposes of assisting economically distressed areas also may be deposited in the economically distressed areas account. Within the economically distressed areas account, separate accounts may be created for bonds issued for purposes of Article III, Section 49-c, of the Texas Constitution, and bonds issued for purposes of Article III, Section 49-d-1, of the Texas Constitution.

(k) The economically distressed areas account may be used as provided by Subchapter K of this chapter in a manner that is consistent with the constitution and other law.

(1) Net proceeds from the sale of political subdivision bonds owned by the board and deposited in the water development fund may be used:

(1) to create reserve funds for revenue bonds issued by the board pursuant to Subchapter I of this chapter;

(2) to create reserve funds for the water bond insurance program authorized by Article III, Section 49-d-4, of the Texas Constitution;

(3) for the purchase of insurance for reserve funds created under this subsection; or

(4) for any purpose approved by the board.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, Sec. 5, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 133, Sec. 2.17; Acts 1987, 70th Leg., ch. 420, Sec. 4, eff. June 17, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 5; Acts 1989, 71st Leg., ch. 309, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 2.15; Acts 1989, 71st Leg., ch. 1062, Sec. 4; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(35), eff. Sept. 6, 1990; Acts 1993, 73rd Leg., ch. 844, Sec. 5, eff. Aug. 30, 1993.

Sec. 17.073. WATER DEVELOPMENT AND ECONOMICALLY DISTRESSED AREAS CLEARANCE FUNDS. (a) The Texas Water Development Clearance Fund, referred to as the "clearance fund," is a special fund in the State Treasury. Transfers shall be made from this fund as provided by this subchapter.

(b) The Economically Distressed Areas Clearance Fund is a special fund in the State Treasury. Transfers shall be made from this fund as provided by this subchapter.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.16.

Sec. 17.074. INTEREST AND SINKING FUND. The Texas Water Development Bonds Interest and Sinking Fund, referred to as the "interest and sinking fund," is a special fund in the State Treasury

into which there shall be paid, from sources specified in this chapter, amounts other than amounts required to be paid into the economically distressed areas interest and sinking fund sufficient to:

(1) pay the interest coming due on all outstanding bonds other than bonds covered by Sections 17.0111 and 17.0112 of this code during the ensuing fiscal year;

(2) pay the principal on all bonds other than bonds covered by Sections 17.0111 and 17.0112 of this code that mature during the ensuing fiscal year, plus collection charges and exchanges on the bonds; and

(3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds other than bonds covered by Sections 17.0111 and 17.0112 of this code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.16.

Sec. 17.0741. ECONOMICALLY DISTRESSED AREAS INTEREST AND SINKING FUND. (a) The Economically Distressed Areas Interest and Sinking Fund is a special fund in the State Treasury to be used to pay debt service on bonds issued for the purposes provided by Subchapter K of this chapter. The fund is composed of:

(1) proceeds from the sale of political subdivision bonds to the Texas Water Resources Finance Authority in amounts provided by the General Appropriations Act;

(2) money provided by the federal government, the state, counties, or other local governmental entities and by private entities for the purpose of paying debt service on bonds issued for purposes provided by Subchapter K of this chapter; and

(3) any other money deposited to the credit of the fund.

(b) Money shall be paid into the economically distressed areas interest and sinking fund from sources specified in Subsection (a) of this section in amounts sufficient to:

(1) pay the interest coming due on all outstanding bonds during the ensuing fiscal year;

(2) pay the principal on all bonds that mature during the ensuing fiscal year, plus collection charges and exchanges on bonds; and

(3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.16.

Sec. 17.075. ADMINISTRATIVE FUND. The Texas Water Development Board Administrative Fund, referred to as the "administrative fund," is a special fund in the State Treasury. From sources specified in this chapter, money shall be credited to this fund in amounts sufficient to pay the administrative expenses of the board as authorized by legislative appropriation.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.076. COMBINED FACILITIES OPERATION AND MAINTENANCE FUND. (a) The Combined Facilities Operation and Maintenance Fund is a special fund in the State Treasury.

(b) Money received from the sale of water, standby service, and the lease of land needed for operation and maintenance of facilities shall be credited to this fund. Any of the money which is not needed for operation and maintenance of facilities may be credited to the interest and sinking fund or used to meet contractual obligations incurred by the board in acquiring facilities.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.077. CREDITS TO CLEARANCE FUNDS. (a) Except as provided by Subsection (b) of this section, and except for proceeds from the sale of bonds and proceeds from the sale, refunding, or prepayment, of political subdivision bonds acquired in carrying out the purposes in Article III, Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution, and the proceeds

from the sale, refinancing, or other liquidation of the investments made under Section 17.083 of this code which shall be deposited in the fund that provided the money for the investment, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

(b) Any amounts received as repayment of financial assistance made to a political subdivision under Subchapter K of this chapter and interest on that financial assistance shall be deposited to the economically distressed areas clearance fund. Money in the economically distressed areas clearance fund may be transferred at any time to the economically distressed areas interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 133, Sec. 2.07; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 6; Acts 1989, 71st Leg., ch. 624, Sec. 2.17; Acts 1989, 71st Leg., ch. 1062, Sec. 5.

Sec. 17.078. TRANSFERS AT END OF FISCAL YEAR. (a) Not later than 15 days after the end of each fiscal year, any money credited to the clearance fund at the end of the fiscal year shall be transferred to the other special funds as prescribed by Sections 17.079 through 17.082 of this code.

(b) Not later than 15 days after the end of each fiscal year, any money credited to the economically distressed areas clearance fund shall be transferred to the other special funds as prescribed by Sections 17.0791 through 17.082 of this code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1,

1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.079. TRANSFERS TO INTEREST AND SINKING FUND. (a)

The board shall determine:

(1) the amount of interest coming due on all bonds outstanding, except for those dedicated pursuant to Section 17.0111 of this code;

(2) the amount of principal of bonds maturing and becoming payable during the fiscal year, except for those bonds dedicated pursuant to Section 17.0111 of this code; and

(3) the average annual principal and interest requirements on all outstanding bonds, except for those bonds dedicated pursuant to Section 17.0111 of this code.

(b) The comptroller shall transfer to the interest and sinking fund, after taking into account any money and securities on deposit in the interest and sinking fund, an amount necessary to pay:

(1) all principal and interest maturing on the bonds, except for those bonds dedicated pursuant to Section 17.0111 of this code, during the fiscal year;

(2) all collection charges and exchanges on the bonds in Subsection (b)(1) of this section; and

(3) the money sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds, except for those bonds dedicated pursuant to Section 17.0111 of this code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.0791. TRANSFERS TO ECONOMICALLY DISTRESSED AREAS INTEREST AND SINKING FUND. (a) The board shall determine:

(1) the amount of interest coming due on all bonds outstanding dedicated pursuant to Section 17.0111 of this code;

(2) the amount of principal of those bonds maturing and becoming payable during the fiscal year; and

(3) the average annual principal and interest



requirements on all outstanding bonds.

(b) The comptroller shall transfer to the economically distressed areas interest and sinking fund, after taking into account any money and securities on deposit in the economically distressed areas interest and sinking fund, an amount necessary to pay:

(1) all principal and interest maturing on the bonds dedicated pursuant to Section 17.0111 of this code during the fiscal year;

(2) all collection charges and exchanges on those bonds; and

(3) the money sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.080. ADDITIONAL FUNDS FOR PAYMENT OF BONDS. (a) If the amount transferred from the clearance fund plus the money and securities in the interest and sinking fund are insufficient to pay the interest coming due and the principal maturing on the bonds during the fiscal year, then after the transfer to the interest and sinking fund of as much money as is available in the clearance fund, the comptroller shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal and interest on the bonds during the fiscal year, except for those bonds dedicated pursuant to Section 17.0111 of this code.

(b) If the amount transferred from the economically distressed areas clearance fund plus the money and securities in the economically distressed areas interest and sinking fund are insufficient to pay the interest coming due and the principal maturing on the bonds dedicated pursuant to Section 17.0111 of this code during the fiscal year, then after the transfer to the economically distressed areas interest and sinking fund of as much money as is available in the economically distressed areas clearance fund, the comptroller shall transfer out of the first money coming into the treasury, not otherwise appropriated by the



constitution, the amount required to pay principal and interest on the bonds during the fiscal year.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17; Acts 1997, 75th Leg., ch. 1423, Sec. 20.06, eff. Sept. 1, 1997.

Sec. 17.081. TRANSFERS TO ADMINISTRATIVE FUND. If money remains in the clearance fund or the economically distressed areas clearance fund after making the transfers provided in Section 17.079 of this code, then to the extent possible the comptroller shall transfer to the administrative fund an amount sufficient to cover the legislative appropriation for administrative expenses of the board for the fiscal year.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.082. TRANSFERS TO DEVELOPMENT FUND. If money remains in the clearance fund or the economically distressed areas clearance fund after making the transfers provided in Sections 17.079, 17.0791, and 17.081 of this code, the comptroller shall transfer the balance to the appropriate account in the development fund at the end of each fiscal year to be used for any purpose for which proceeds of bonds in such account may be used.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.0821. TRANSFERS TO REVOLVING FUNDS. (a) In order to meet requirements of Title VI of the Federal Water Pollution Control Act, the board may direct the comptroller to transfer amounts from the water quality enhancement account to the state water pollution control revolving fund created by Section 15.601 of this code to provide financial assistance pursuant to this chapter.

(b) In order to meet requirements of any federal legislation or federal agency program under which an additional state revolving

fund, as defined in Section 15.602 of this code, has been established, the board may direct the comptroller to transfer amounts from the water supply account, the flood control account, and the economically distressed areas account to such additional state revolving fund to provide financial assistance pursuant to this chapter.

(c) The board shall use the state water pollution control revolving fund in accordance with Section 15.604(4) of this code and the Federal Water Pollution Control Act, Section 603(d)(4), as a source of revenue to be deposited in accordance with this chapter for the payment of principal and interest on water quality enhancement bonds issued by the state, the proceeds of which are deposited into the state water pollution control revolving fund.

(d) In the event amounts are transferred to any additional state revolving fund, as defined in Section 15.602 of this code, pursuant to Subsection (b) of this section, the board shall, to the extent permitted by the federal legislation or federal agency program under which such additional state revolving fund was established, use such additional state revolving fund as a source of revenue to be deposited in accordance with this chapter for the payment of principal and interest on water development bonds issued by the state, the proceeds of which are deposited into such additional state revolving fund.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 2, eff. June 17, 1987.

Amended by Acts 1993, 73rd Leg., ch. 184, Sec. 5, eff. May 19, 1993.

Sec. 17.083. INVESTMENT OF RESERVE MONEY. The board may invest any money credited to the development fund and not immediately required for its intended use and money in the interest and sinking fund and in the economically distressed areas interest and sinking fund, including the reserve portions of the interest and sinking fund and the economically distressed areas interest and sinking fund, in investments authorized by law for state deposits under Section 404.024, Government Code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 7, Sec. 2, eff. March 24, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987;

Acts 1989, 71st Leg., ch. 308, Sec. 2, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 2.17; Acts 1993, 73rd Leg., ch. 477, Sec. 8, eff. Aug. 30, 1993.

Sec. 17.084. LIMITATION ON BOARD INVESTMENT. The board is bound to the extent that the resolution authorizing the issuance of the bonds further restricts the investment of money in bonds of the United States.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.085. SALE OF SECURITIES. All of the bonds and obligations owned in the interest and sinking fund, in the economically distressed areas interest and sinking fund, or in the development fund are defined as securities. The board may sell securities owned in the interest and sinking fund, in the economically distressed areas interest and sinking fund, or in any account in the development fund at the governing market price.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.17.

Sec. 17.086. TRANSFERS TO BE MADE BY COMPTROLLER. The comptroller shall make the transfers required by this subchapter.

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

Sec. 17.0871. SALE OF POLITICAL SUBDIVISION BONDS TO THE 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 development fund or the agricultural water conservation fund and may apply the proceeds of the 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 Texas Water Resources Finance 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 development fund or the agricultural water conservation fund, as applicable, an amount equal to the proportionate share of the investment income attributable to the money used to purchase the political subdivision bonds.

(e) Proceeds from the sale excluding accrued interest may be used by the board together with other available money including money in the interest and sinking fund and reserve fund and other amounts that are pledged to repayment of bonds to be discharged, paid, or redeemed, to discharge, pay, or redeem, in whole or in part, outstanding water development bonds, water quality enhancement bonds, agricultural water conservation bonds, and obligations of the board under contracts entered into under Subchapter E of Chapter 16 of this code.

(f) Money to be used to make discharges, payments, or redemptions under Subsection (e) of this section may be deposited by the board with a paying agent or trustee selected by the board. The board may enter into an escrow or similar agreement with the paying agent or trustee with respect to the safekeeping, investment, reinvestment, administration, and disposition of the money on terms and conditions that the board considers reasonable.

(g) The accrued interest portion of proceeds from the sale of political subdivision bonds shall be disposed of as otherwise provided by this chapter. Money not applied to discharges, payments, or redemptions shall be deposited in the development fund, the administrative fund, the water assistance fund, or the

agricultural water conservation fund, as appropriate, to be used for the purposes provided by law.

(h) As part of the 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 the political subdivision bonds and observes the conditions and requirements stated in those bonds.

Added by Acts 1987, 70th Leg., ch. 728, Sec. 4, eff. June 20, 1987.

Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 28, eff. Sept. 1, 2001.

#### SUBCHAPTER D. ASSISTANCE TO POLITICAL SUBDIVISIONS FOR WATER SUPPLY PROJECTS

Sec. 17.121. FINANCIAL ASSISTANCE. The water supply account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply projects, including those projects initiated for the sole purpose of conservation as defined in Section 17.001(23)(B) of this code.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, Sec. 1, eff. June 10, 1981; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1062, Sec. 6.

Sec. 17.122. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance for a water supply project, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

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

(3) a description of the water supply project for which the financial assistance will be used;

(4) the total cost of the water supply project;

(5) the amount of state financial assistance

requested;

(6) the plan for repaying the total cost of the water supply project;

(7) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision; and

(8) any other information the board requires.

(b) 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.

(c) If the applicant claims an exemption under Subsection (c), Section 17.125, of this code, he shall state the exemption in his application and provide information relating to that exemption as provided by board rules.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1985, 69th Leg., ch. 133, Sec. 1.03; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.123. 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 which the water supply project will provide; or

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

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff.

Sept. 1, 1977; Acts 1985, 69th Leg., ch. 795, Sec. 1.053, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 246, Sec. 2, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1234, Sec. 29, eff. Sept. 1, 2001.

Sec. 17.124. CONSIDERATIONS IN PASSING ON APPLICATIONS. In passing on an application from a political subdivision for financial assistance for a water supply project, the board shall consider:

(1) the needs of the area to be served by the water supply project, the benefit of the water supply project to the area, the relationship of the water supply project to the overall, statewide water needs, and the relationship of the water supply project to the state water plan; and

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the water supply project, including interest.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1985, 69th Leg., ch. 133, Sec. 2.12; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 477, Sec. 9, eff. Aug. 30, 1993.

Sec. 17.1245. EVALUATION. (a) In passing on an application for financial assistance from a retail public utility that provides potable water service to 3,300 or more connections, the board shall:

(1) evaluate for compliance with the board's best management practices the utility's water conservation plan required under Section [13.146](#); and

(2) issue a report to a utility detailing the results of the evaluation conducted under Subdivision (1).

(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a written summary of the results of evaluations conducted under Subsection (a)(1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1139 (H.B. [3605](#)), Sec. 2, eff. September 1, 2013.

Sec. 17.125. APPROVAL OF APPLICATION. (a) The board by resolution may approve an application if, after considering the factors listed in Section 17.124 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state assistance in the water supply project;

(2) and 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 during the succeeding period of not more than 50 years.

(b) Before the board grants the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Subdivision (23)(B), Section 17.001, 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.

(b-2) The board shall give priority to applications for funds for 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.

(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; or

(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.

(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 water supply 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 measures.

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

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1985, 69th Leg., ch. 133, Sec. 1.04; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 477, Sec. 10, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 688, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.19, eff. September 1, 2007.

Sec. 17.127. LIMITATION ON USE OF FUNDS. If there is insufficient money available to fund all applications under this subchapter, the board shall give preference to applications for political subdivisions that the board finds cannot reasonably finance the project without assistance from the state.

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

Sec. 17.128. RECREATIONAL ACCESS. If the board is providing financial assistance for a water storage project, it must also find affirmatively that the applicant has a plan to provide adequate public recreational access areas to suitable recreational resources.

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

#### SUBCHAPTER E. PROVISIONS GENERALLY APPLICABLE TO FINANCIAL ASSISTANCE

Sec. 17.171. DEFINITION. In this subchapter, "project" includes water supply projects, treatment works, and flood control measures.

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

Sec. 17.172. APPLICABILITY. This subchapter applies to financial assistance made available from the water supply account, the water quality enhancement account, the flood control account, and the economically distressed areas account under Subchapters D, F, G, and K of this chapter.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.18.

Sec. 17.173. METHOD OF FINANCIAL ASSISTANCE. The board may provide financial assistance by using money in the water supply account, the water quality enhancement account, the flood control

account, and the economically distressed areas account to purchase bonds or other obligations issued by the political subdivision to finance the project. The board may purchase bonds or other obligations that are secondary or subordinate to other bonds or obligations issued by the political subdivision, including outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. The board may purchase refunding bonds or obligations of a political subdivision issued for the purpose of refunding bonds or other obligations issued for the construction of any projects described in this chapter.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.18; Acts 1991, 72nd Leg., ch. 516, Sec. 5, eff. Sept. 1, 1991.

Sec. 17.174. CONDITIONAL APPROVAL. The board may make binding commitments to provide financial assistance for any project in accordance with this code conditioned on the future availability of money in the appropriate account of the development fund.

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

Sec. 17.175. BOND MATURITY. The board may not purchase bonds or other securities which have a maturity date more than 50 years from the date of issuance.

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

Sec. 17.176. INTEREST RATE. (a) Except as provided in Subsection (b) of this section, bonds and securities purchased by the board on or after September 1, 1977, with money derived from the sale of bonds issued under this chapter shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as

necessary.

(b) Bonds and securities purchased by the board pursuant to applications for financial assistance approved by the board prior to September 1, 1977, shall bear interest at the rate prescribed by Subsection (a) of this section prior to this amendment. Outstanding prior lien bonds purchased by the board under Section 17.173 of this code need not bear the interest rate provided in Subsection (a) of this section, but the board may pay such price or prices for outstanding prior lien bonds which in its discretion will accomplish the objective of that section.

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

Sec. 17.1765. CERTIFICATION OF APPLICATION. Before the board may purchase bonds or other obligations issued by a political subdivision, the political subdivision must certify to the board that the application for financial assistance filed with the board was approved in an open meeting.

Added by Acts 1997, 75th Leg., ch. 297, Sec. 1, eff. Sept. 1, 1997.

Sec. 17.177. APPROVAL AND REGISTRATION. The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller.

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

Sec. 17.178. BONDS INCONTESTABLE. The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

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

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

Sec. 17.179. SECURITY FOR BONDS. (a) Except as provided by Subsection (c) of this section, bonds purchased by the board shall

be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(c) Bonds purchased by the board under Subchapter K of this chapter may be additionally supported by money provided to the political subdivision by the federal or state government and by private donations.

(d) With respect to projects for which financial assistance is made available under this chapter, the Texas Water Development Board shall file semiannually with the Bond Review Board a report on the performance of loans made by the Texas Water Development Board in connection with the projects. The Bond Review Board shall review the reports filed by the Texas Water Development Board under this subsection to assess the adequacy of the security for the bonds purchased. The filing dates and the contents of the reports must comply with any rules adopted by the Bond Review Board.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.18; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 13.01, eff. Aug. 22, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 8.408, eff. Sept. 1, 2001.

Sec. 17.181. SALE OF BONDS BY BOARD. The board may sell or dispose of bonds purchased with money in the water supply account, the water quality enhancement account, the flood control account, or the economically distressed areas account.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 624, Sec. 2.18.

Sec. 17.182. PROCEEDS FROM SALE. Unless used to pay debt service on bonds issued under this chapter, the proceeds from the sale of political subdivision bonds held by the board either shall be credited to the account from which financial assistance was made to the political subdivision, except that accrued interest shall be credited to the interest and sinking fund, or shall be deposited to the credit of the Texas Water Development Fund II, established within the state treasury pursuant to Section 49-d-8, Article III, Texas Constitution. However, no such proceeds shall be deposited to the credit of the Texas Water Development Fund II unless the executive administrator certifies to the board that the transfer of such proceeds into the Texas Water Development Fund II will not cause the board, in the fiscal year the transfer is made, to direct the comptroller to transfer out of the first money coming into the state treasury during that fiscal year funds sufficient for the payment of principal of or interest on water development bonds, other than water development bonds issued for the purposes described in Subsection (e), Section 49-d-7, Article III, Texas Constitution, coming due in that fiscal year.

Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 5.08.

Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation 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 shall be in a penal sum of not less than 100 percent of the contract price and

remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall 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 political subdivision with approval of the executive administrator;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision 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 approved plans and specifications;

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications;

(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible; and

(8) that the contract include a requirement that iron and steel products used in the project be produced in the United States, unless:

(A) such products are not:

(i) available in sufficient quantities;

(ii) readily available; or

(iii) of a satisfactory quality; or

(B) the use of such products will increase the

total cost of the project by more than 20 percent.

(b) Plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards.

(c) For the purposes of Subsections (a)(8) and (d):

(1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. [1289](#)), Sec. 5, eff. September 1, 2017.

(2) Repealed by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. [1289](#)), Sec. 5, eff. September 1, 2017.

(3) "Manufacturing process" means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements so that a new end product is produced that is functionally different from the product that would result from simple assembly of the materials or elements.

(4) "Produced in the United States" means, in the case of iron and steel products, products for which all manufacturing processes, from initial melting through application of coatings, take place in the United States, except metallurgical processes that involve the refinement of steel additives.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. [1289](#)), Sec. 5, eff. September 1, 2017.

(e) This section shall be applied in a manner consistent with this state's obligations under any international agreement.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 309, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 2.18; Acts 2003, 78th Leg., ch. 1057, Sec. 6, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. [4](#)), Sec. 2.08, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1139 (H.B. [3605](#)), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. [1289](#)), Sec. 3, eff. September 1, 2017.



Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 5, eff. September 1, 2017.

Sec. 17.184. FILING CONSTRUCTION CONTRACT. The political subdivision 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 shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

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

Sec. 17.185. INSPECTION OF PROJECTS.

(a) The board may inspect the construction of a project at any time to assure that the contractor is substantially complying with the approved engineering plans and specifications of the project.

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

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.09, eff. September 1, 2013.

Sec. 17.186. ALTERATION OF PLANS. After the executive administrator approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive administrator authorizes the alteration in accordance with rules of the board. 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.

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

1987.

Sec. 17.187. 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 and specifications; or

(2) failure to comply with any term of the contract.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.10, eff. September 1, 2013.

Sec. 17.188. OBTAINING FINANCIAL ASSISTANCE. (a) To obtain financial assistance under this chapter, a political subdivision may authorize and issue revenue bonds for the purpose of constructing projects and sell those bonds to the board in amounts as determined by the governing body of the political subdivision and approved by the board.

(b) Notwithstanding the provisions of any general or special law or charter provisions to the contrary, a political subdivision may authorize, issue, and sell its revenue bonds as provided by this section and create any encumbrance in connection with those bonds by a majority vote of the governing body of the political subdivision without the necessity of an election.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1420, Sec. 8.409, eff. Sept. 1, 2001.

Sec. 17.189. CONSIDERATIONS FOR CERTAIN FINANCIAL ASSISTANCE. (a) If financial assistance is provided under Subchapter F, I, or K of this chapter, any treatment works to be financed under the application must consider cost-effective innovative, nonconventional methods of treatment such as rock reed, root zone, ponding, irrigation, or other 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 F, I, or K of this chapter that includes financing for treatment works, the board must find that any treatment works to be financed under the application will consider cost-effective innovative, nonconventional methods of treatment such as rock reed, root zone, ponding, irrigation, or other 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. 2.19.

SUBCHAPTER F. FINANCIAL ASSISTANCE FOR WATER QUALITY ENHANCEMENT  
PURPOSES

Sec. 17.271. PURPOSE. The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Sections 49-d-1, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution to political subdivisions of the state for the construction of treatment works.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1985, 69th Leg., ch. 133, Sec. 2.07; Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 6; Acts 1989, 71st Leg., ch. 1062, Sec. 5.

Sec. 17.272. FINANCIAL ASSISTANCE. The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement. Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.273. AUTHORITY OF POLITICAL SUBDIVISION. A political subdivision may apply to the board for financial assistance and may use water quality enhancement funds for construction of treatment works in the manner provided in this subchapter.

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

1987.

Sec. 17.274. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance for water quality enhancement purposes, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

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

(3) a description of the treatment works for which the financial assistance will be used;

(4) the estimated total cost of construction of the treatment works;

(5) the amount of state financial assistance requested;

(6) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(7) the plan for repaying the financial assistance; and

(8) any other information the board requires.

(b) If the applicant has a program of water conservation, the applicant shall state in the application that it has a water conservation program and shall describe that program in the manner required by board rules.

(c) If the applicant claims an exemption under Subsection (d), Section 17.277, of this code, the applicant shall state the exemption in the application and provide information relating to that exemption as provided by board rules.

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

Sec. 17.275. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application from a political subdivision for financial assistance for water quality enhancement purposes, the board shall consider:

(1) the water quality needs of the waters into which

effluent from the treatment works will be discharged, the benefit of the treatment works to such water quality needs, the relationship of the treatment works to the overall, statewide water quality needs; and the relationship of the treatment works to water quality planning for the state;

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the treatment works, including interest; and

(3) whether the political subdivision has been designated, pursuant to Section 26.082 of this code, to provide a regional system to serve all or part of the waste disposal needs of a defined area, the development of such systems being the declared policy of the legislature.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 477, Sec. 12, eff. Aug. 30, 1993.

Sec. 17.276. ACTION ON APPLICATION. (a) After an application is received for financial assistance, the executive administrator shall submit the application to the board together with comments and recommendations concerning the best method of making financial assistance available.

(b) The board may grant the application in whole or part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided for treatment works and the amount of any such assistance.

(d) The board shall review and approve or disapprove plans and specifications for all sewerage collection, treatment, and disposal systems for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended, in a manner that will satisfy commission requirements for design criteria and permit conditions that apply to construction activities.

(e) The deliberations, proposals, decisions, and other actions of the board under this subchapter do not require the concurrence or approval of any other governmental agency, board,

commission, council, political subdivision, or other governmental entity.

(f) When bonds or other obligations are purchased by the board, water quality enhancement funds shall be delivered to the political subdivisions entitled to receive them and shall be used only to pay construction costs of treatment works approved in this subchapter.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 516, Sec. 6, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 477, Sec. 13, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 1057, Sec. 7, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.11, eff. September 1, 2013.

Sec. 17.277. APPROVAL OF APPLICATION. (a) The board by resolution may approve an application if, after considering the factors listed in Section 17.275 of this code and any other relevant factors, the board finds that the public interest will benefit from state assistance in the financing of the treatment works.

(b) Before the board grants the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Subdivision (23)(B), Section 17.001, 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; or

(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.

(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 measures.

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

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 477, Sec. 14, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 688, Sec. 4, eff. June 20, 2003.

Sec. 17.278. FINDINGS REGARDING PERMITS. If an application includes a proposal for a wastewater treatment plant, the board may

not deliver funds for the wastewater treatment plant until the applicant has obtained a permit for the construction and operation of the plant and approval of the plans and specifications for the plant from the commission. If an application includes a proposal for a wastewater treatment plant that is located outside the jurisdiction of this state and that is not subject to the permitting authority of the commission, the board may not deliver funds for the wastewater treatment plant until after the board reviews the plans and specifications in coordination with the commission and finds that the wastewater treatment plant is capable of producing effluent that will meet federal and Texas-approved water quality standards and if effluent produced will result in water being available for use in or for the benefit of Texas.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1010, Sec. 5.09, eff. Sept. 1, 1997.

Sec. 17.279. LIMITATION ON USE OF FUNDS. If there is insufficient money available to fund all applications under this subchapter, the board shall give preference to applications for political subdivisions that the board finds cannot reasonably finance the treatment works without assistance from the state.

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

#### SUBCHAPTER G. FINANCIAL ASSISTANCE FOR FLOOD CONTROL

Sec. 17.771. PURPOSE. The purpose of this subchapter is to provide for making loans of flood control funds authorized by Article III, Sections 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution, to political subdivisions of the state for the development of floodplain management plans and for structural and nonstructural flood control projects.

Added by Acts 1985, 69th Leg., ch. 133, Sec. 2.21. Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 66, Sec. 6; Acts 1989, 71st Leg., ch. 1062, Sec. 5.



Sec. 17.772. FINANCIAL ASSISTANCE. The board may use flood control funds to provide financial assistance to political subdivisions for purposes of structural and nonstructural flood control and the development of floodplain management plans. Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.773. APPLICATION FOR ASSISTANCE. In an application to the board for financial assistance for flood control purposes, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

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

(3) a description of the flood control measures for which the financial assistance will be used;

(4) the estimated total cost of the measures;

(5) the amount of state financial assistance requested;

(6) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(7) the plan for repaying the financial assistance; and

(8) any other information the board requires.

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

Sec. 17.774. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application from a political subdivision for financial assistance for flood control purposes, 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, from all sources, for the ultimate repayment of the cost of the project, including interest;

(3) the capacity of the watershed to accommodate stormwater runoff;

(4) the impact of the project on watershed capacity along the entire watershed and the degree to which that capacity was considered in planning the project;

(5) whether the project will increase or decrease the volume or rate of stormwater runoff into any channel in the watershed;

(6) the effect of the project on surface water elevations within the watershed and any downstream watershed;

(7) the relationship of the project to any floodplain management plan for the watershed; and

(8) whether adequate consideration was given to the effects of the project with regard to erosion and sediment control.  
Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

Sec. 17.775. ACTION ON APPLICATION. (a) After an application is received for financial assistance for flood control purposes, the executive administrator shall submit the application to the board together with comments and recommendations concerning the best method of making financial assistance available.

(b) The board may grant the application in whole or part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided and the amount of any such assistance.

Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 516, Sec. 7, eff. Sept. 1, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.12, eff. September 1, 2013.

Sec. 17.776. APPROVAL OF APPLICATION. The board by

resolution may approve an application if, after considering the factors listed in Section 17.774 of this code and other relevant information, the board finds:

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

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

(3) if the project would increase the volume or rate of stormwater runoff, that adequate consideration was given to alternative approaches that would decrease or hold constant the volume or rate of stormwater runoff;

(4) that the project proposed in the application will not increase the peak water surface elevation of any portion of any stream within the watershed or within any downstream watershed; and

(5) that adequate consideration was given to the effects of the project with regard to erosion and sediment control. Amended by Acts 1987, 70th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER I. REVENUE BOND PROGRAM

Sec. 17.851. PURPOSE. The purpose of this subchapter is to provide for the benefit of the public additional methods for financing the conservation and development of water resources of this state including an additional method for making financial assistance available to participants in the conservation and development of water resources of this state. This financial assistance is made available on terms and conditions prescribed by this subchapter, and it is found and determined that this subchapter is in furtherance of a public purpose.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Sec. 17.852. DEFINITIONS. In this subchapter:

(1) "Acquired obligations" means obligations of participants acquired under this subchapter.

(2) "Acquired obligations resolution" means the resolution, order, ordinance, or similar instrument duly adopted or passed by the governing body of a participant providing for payments of principal and interest to be made by the participant to the board and includes sufficient money to pay the principal of, premium on, if any, and interest on the acquired obligations and to maintain the funds established or required to be established by the acquired obligations resolution.

(3) "Fund" means the Texas water resources fund.

(4) "Participant" means a political subdivision or agency of the state or a nonprofit corporation organized pursuant to Chapter 67, that is authorized to finance projects.

(5) "Project" includes water supply projects, treatment works, and flood control projects.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.  
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.60, eff. Sept. 1, 1999.

Sec. 17.853. TEXAS WATER RESOURCES FUND. (a) The Texas water resources fund is in the State Treasury.

(b) The fund shall be administered by the board in accordance with this subchapter, and the board shall create accounts within the fund that will facilitate the conservation of water resources and the payment of revenue bonds issued for the conservation of water resources.

(c) The board may use the fund only:

(1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J, Chapter 15;

(2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 67, and other participants;

(3) to provide financial assistance to participants for the construction of water supply projects and treatment works;

(4) to provide financial assistance for an interim construction period to participants for projects for which the

board will provide long-term financing through the water development fund;

(5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K, Chapter 17, to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance program of the board;

(6) to provide funds to the water infrastructure fund created under Section 15.973; and

(7) to provide funds to the state water implementation revenue fund for Texas.

(d) Money in the fund may be invested by the board as permitted by this subchapter, other applicable law, or as provided by resolutions authorizing the issuance of revenue bonds.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 2.20; Acts 1991, 72nd Leg., ch. 516, Sec. 8, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 184, Sec. 4, eff. May 19, 1993; Acts 1999, 76th Leg., ch. 62, Sec. 18.61, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 966, Sec. 4.18, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 3(46), eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.13, eff. November 5, 2013.

Sec. 17.854. METHODS OF FINANCIAL ASSISTANCE. The board may use the fund to acquire obligations of political subdivisions in accordance with the purposes stated in Section 17.853 of this code.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Sec. 17.855. FINANCIAL ASSISTANCE BY ACQUISITION OF ACQUIRED OBLIGATIONS. (a) In an application to the board for financial assistance through the acquisition of acquired obligations, the participant shall include:

(1) the name of the participant and its principal

officer or officers;

(2) a citation of the law under which the participant was created, operates, and proposes to issue its obligations to be acquired by the board;

(3) the total cost of the project;

(4) the amount of state financial assistance requested;

(5) the plan for paying the principal of and interest on its obligations to be acquired by the board; 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 financial assistance unless it is submitted in writing and subscribed to in affidavit form by an official representative of the participant. The board shall prescribe the affidavit form in its rules.

(c) The board may require additional factual material from an applicant.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Sec. 17.856. CONSIDERATION IN PASSING ON APPLICATION FOR FINANCIAL ASSISTANCE. In passing on an application for financial assistance for a participant, the board shall consider:

(1) the needs of the area to be served by the project;

(2) the availability to the participant of revenues, taxes, or a combination of revenues and taxes for payment of the acquired obligations of the participant; and

(3) the costs to be incurred in the development, construction, and operation of the project.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Sec. 17.857. APPROVAL OF APPLICATION. (a) The board by resolution may approve an application if the board finds:

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

(2) that, in its opinion, the revenue, taxes, or combination of revenue and taxes pledged by the participant will be sufficient to pay the principal of and interest on the acquired

obligations until the acquired obligations are fully paid.

(b) Before the board grants the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Paragraph (B) of Subdivision (14) of Section 17.001 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; or

(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.

(d) 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 measures.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Amended by Acts 2003, 78th Leg., ch. 688, Sec. 5, eff. June 20, 2003.

Sec. 17.858. ACQUISITION OF ACQUIRED OBLIGATIONS. (a) If the board approves an application for financial assistance under this subchapter and is to purchase acquired obligations from a participant, the acquired obligations resolution must:

(1) provide for development, construction, and operation of the project by the participant or a person contracting with the participant; and

(2) provide that the participant shall make sufficient payments to the board to service the acquired obligations from:

(A) all or part of the revenues from the ownership or operation of the project;

(B) all or part of any other revenues or funds that may lawfully be pledged by the participant;

(C) taxes levied by the participant or other users of the project; or

(D) any combination of Paragraphs (A), (B), and (C) of this subdivision.

(b) The acquired obligations purchased by the board pursuant to this subchapter shall bear rates of interest and mature in amounts and at times as may be reasonably expected to provide funds for orderly payment of the revenue bonds issued by the board.

Added by Acts 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

Sec. 17.859. ISSUANCE OF REVENUE BONDS BY THE BOARD. (a) The board may issue its revenue bonds for the purpose of providing money for the fund, and the money in the fund shall be used for acquiring interests in projects and for providing financial assistance to participants in accordance with this subchapter.

(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, and in addition to the authority granted by this subsection, the board may issue refunding bonds under other applicable law.

(c) The revenue bonds are special obligations of the board payable only from designated income and receipts of the board including principal of and interest paid and to be paid on acquired obligations, other designated obligations held by the board, or income from accounts created within the fund by the board, as determined by the board.

(d) The revenue bonds do not constitute indebtedness of the state as prohibited by the constitution.

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

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

(g) Revenue bonds 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; and

(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) All proceedings relating to the issuance of revenue bonds issued pursuant to 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, he shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller of public accounts. 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.

(i) The proceeds received from the sale of revenue bonds may be deposited or invested in any manner and in the obligations 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 1987, 70th Leg., ch. 420, Sec. 3, eff. June 17, 1987.

#### SUBCHAPTER J. AGRICULTURAL WATER CONSERVATION BOND PROGRAM

Sec. 17.871. DEFINITIONS. In this subchapter:

(1) "Bonds" means Texas agricultural water conservation bonds authorized by Article III, Section 50-d, of the Texas Constitution and issued as bonds, notes, or other evidences of indebtedness in accordance with this subchapter.

(2) Repealed by Acts 2003, 78th Leg., ch. 200, Sec. 19(w)(2) and Acts 2003, 78th Leg., ch. 352, Sec. 23(2).

(3) "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 17.905 and to provide collateral equal to the amount of linked deposits placed with it, and meets any other requirements established by board rule.

(4) "Fund" means the agricultural water conservation fund authorized by Section 50-d, Article III, of the Texas Constitution.

(5) "Person" means an individual, corporation, partnership, association, or other legal entity that is not a political subdivision.

(6) "Political subdivision" includes a district or authority created under Section 52, Article III, or Section 59, Article XVI, of the Texas Constitution, a municipality, a county, an institution of higher education as defined by Section 61.003, Education Code, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 67.

(7) Repealed by Acts 2003, 78th Leg., ch. 200, Sec. 19(w)(2) and Acts 2003, 78th Leg., ch. 352, Sec. 23(2).

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 966, Sec. 4.19, eff. Sept. 1, 2001;

Acts 2001, 77th Leg., ch. 1234, Sec. 30, eff. Sept. 1, 2001;

Acts 2003, 78th Leg., ch. 200, Sec. 19(e), 19(w)(2), eff. Sept. 1, 2003;

Acts 2003, 78th Leg., ch. 352, Sec. 5, 23(2), eff. Sept. 1, 2003.

Sec. 17.872. ISSUANCE OF BONDS. The board by resolution may provide for the issuance of negotiable bonds, to be known as Texas agricultural water conservation bonds, in an aggregate principal amount not to exceed \$200 million pursuant to Article III, Section 50-d, of the Texas Constitution.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.873. CONDITIONS FOR ISSUANCE OF BONDS. (a) Bonds may be issued as various series and issues and shall be on a parity.

(b) Bonds may mature serially or otherwise not later than 50

years after the date on which they are issued.

(c) The bonds may bear no interest or interest at a rate or rates determined in accordance with law.

(d) Rates of interest on bonds may be fixed, variable, floating, adjustable, or otherwise, determined by the board or determined pursuant to any contractual arrangements approved by the board.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.874. PERIODIC DETERMINATION OF INTEREST. A bond resolution or order may provide for payment of interest at any time or the periodic determination of interest rates or interest rate periods.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.875. PERSONS DESIGNATED TO ACT AS AGENTS OF BOARD.

(a) A bond resolution or order may delegate authority to one or more officers, employees, or agents designated by the board to act on behalf of the board during the time bonds are outstanding to:

(1) fix dates, prices, interest rates, and interest payment periods; and

(2) perform other procedures specified in the resolution.

(b) The person designated by the board may adjust the interest on bonds as necessary to permit the bonds to be sold or resold at par in conjunction with secondary market transactions.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.876. SECURITY QUALIFICATIONS. The board may take any action necessary to qualify the bonds for offer and sale under the securities laws and regulations of the United States, this state, and other states.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.877. INVESTMENT SECURITIES. The bonds and any interest coupons are investment securities under Chapter 8, Business & Commerce Code, and may be issued registrable as to

principal or as to both principal and interest or may be made redeemable before maturity at the option of the board or may contain a mandatory redemption provision.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.878. FORM OF BONDS. (a) The bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details as provided by the board in the resolution or order authorizing their issuance.

(b) The bonds shall be signed and executed as provided by the board's resolution or order authorizing the issuance of the bonds.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.879. FUNDS. (a) The bond proceeds shall be deposited in the state treasury to the credit of the fund.

(b) In the resolution or order authorizing issuance of bonds, the board may make additional covenants with respect to the bonds and may provide for the flow of funds and the establishment, maintenance, and investment of funds.

(c) By rule or in the resolution or order authorizing issuance of bonds or other resolution or order of the board, the board may establish an interest and sinking fund and may establish accounts in the funds, including an interest and sinking account, and may transfer money among the funds and accounts.

(d) The board may invest and reinvest money in the fund, the interest and sinking fund, and any account therein in any obligations or securities as provided by bond resolutions, orders of the board, and Section [404.024](#), Government Code.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(f), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 6, eff. Sept. 1, 2003.

Sec. 17.880. SALE OF SECURITIES. (a) Loans, bonds of political subdivisions, and other obligations owned by the state and deposited in the fund or in the interest and sinking fund are considered to be securities under this subchapter.

(b) The board may sell securities owned in the interest and sinking fund or in any account in the fund at the governing market price.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 7, eff. Sept. 1, 2003.

Sec. 17.881. SALE OF OBLIGATIONS TO TEXAS WATER RESOURCES FINANCE AUTHORITY. (a) Pursuant to Section [17.0871](#) and notwithstanding any other provision of this chapter, the board may sell to the Texas Water Resources Finance Authority any loans or bonds of borrower districts or lender districts purchased with money in the fund and may apply the proceeds of the sale in the manner provided by Section [17.0871](#).

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

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(h), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 8, eff. Sept. 1, 2003.

Sec. 17.882. RESOLUTIONS, ORDERS, ETC. (a) The orders or resolutions of the board that provide for issuing bonds may include other provisions and covenants that the board determines necessary.

(b) The board may adopt and have executed any other proceedings, agreements, or trust agreements or instruments necessary and convenient in the issuance of bonds.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.883. BOND REVIEW BOARD. Bonds may not be issued under this subchapter unless the issuance of the bonds has been reviewed and approved by the bond review board. Prior to issuance of bonds, the board shall estimate demand for conservation programs or projects based on a survey of eligible participants in the program. A summary of this information shall be furnished to the bond review board.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(i), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 9, eff. Sept. 1, 2003.

Sec. 17.884. APPROVAL OF ATTORNEY GENERAL. The proceedings relating to the bonds issued under this subchapter are subject to review and approval by the attorney general in the same manner and with the same effects as provided by Chapter 1371, Government Code. Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.410, eff. Sept. 1, 2001.

Sec. 17.885. BONDS INCONTESTABLE. After approval of the proceedings relating to bonds issued under this subchapter by the attorney general, registration of the proceedings by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state. Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.886. PAYMENT AND TRANSFERS BY COMPTROLLER. (a) The comptroller shall pay the principal of the bonds as they mature and the interest on the bonds as it becomes due.

(b) If the money and securities in the interest and sinking fund are insufficient to pay the interest that is due and the principal maturing on the bonds during the fiscal year, the comptroller shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal of and interest on the bonds during the fiscal year.

(c) The comptroller shall make the transfers required by the board's bond resolution or order and this subchapter.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 20.07, eff. Sept. 1, 1997.

Sec. 17.887. REFUNDING BONDS. (a) The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and accrued interest on

those bonds.

(b) The board may sell the refunding bonds and use the proceeds to retire the outstanding bonds issued under this chapter, exchange the refunding bonds for the outstanding bonds, or refund the bonds in the manner provided by any other applicable statute, including Chapter 1207, Government Code.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.411, eff. Sept. 1, 2001.

Sec. 17.888. MUTILATED, LOST, OR DESTROYED BONDS. The board may provide for the replacement of mutilated, lost, or destroyed bonds.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.889. ELIGIBLE SECURITY. The bonds are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their face value.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.890. LEGAL INVESTMENTS. The bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school

districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.



Sec. 17.891. TAX EXEMPT BONDS. Since the board is performing an essential governmental function in the exercise of the powers conferred on it by this chapter, the bonds issued under this subchapter and the interest and income from the bonds, including any profit made on the sale of bonds, and all fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of the bonds are free from taxation and assessments of every kind by this state and any city, county, district, authority, or other political subdivision of this state.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.892. ENFORCEMENT BY MANDAMUS. Payment of the bonds and performance of official duties prescribed by Article III, Section 50-d, of the Texas Constitution and this subchapter may be enforced in a court of competent jurisdiction by mandamus or other appropriate proceedings.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Sec. 17.893. 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 its bonds and other obligations, but this subchapter is wholly sufficient authority for the issuance of bonds 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 powers granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, Government Code.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.412, eff. Sept. 1, 2001.

Sec. 17.894. BOND ENHANCEMENT AGREEMENTS; PAYMENT OF EXPENSES. (a) The board at any time and from time to time may enter into one or more bond enhancement agreements that the board

determines to be necessary or appropriate to place the obligation of the board, as represented by the bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. A bond enhancement agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the board approves.

(b) The fees and expenses of the board in connection with the issuance of the bonds and the providing of financial assistance to political subdivisions may be paid from money in the fund, provided that any payments due from the board under a bond enhancement agreement, other than fees and expenses, that relate to the payment of debt service on the bonds constitute payments of principal of and interest on the bonds.

(c) Bond enhancement agreements may include, on terms and conditions approved by the board, interest rate swap agreements; currency swap agreements; forward payment conversion agreements; agreements providing for payments based on levels of or changes in interest rates or currency exchange rates; agreements to exchange cash flows or a series of payments; agreements, including options, puts, or calls, to hedge payment, currency, rate, spread, or other exposure; or other agreements that further enhance the marketability, security, or creditworthiness of water financial assistance bonds.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 31, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 19(j), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 10, eff. Sept. 1, 2003.

Sec. 17.895. SOURCES OF ASSETS. The fund is composed of:

(1) money and assets, including bond proceeds, attributable to the bonds;

(2) investment income earned on money on deposit in the fund and depository interest earned on money on deposit in the state treasury;

(3) money appropriated by the legislature;

(4) repayments of principal and interest on loans made under this subchapter;

(5) administrative fees charged by the board under the bond program;

(6) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and

(7) any other funds, regardless of their source, that the board directs be deposited to the credit of the fund.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.09, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 456, Sec. 7, eff. June 18, 1999;

Acts 1999, 76th Leg., ch. 979, Sec. 9, eff. June 18, 1999; Acts

2001, 77th Leg., ch. 966, Sec. 4.20, eff. Sept. 1, 2001; Acts 2003,

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

Leg., ch. 352, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.14, eff.

November 5, 2013.

Sec. 17.896. REPAYMENT PROCEEDS. The board shall designate a transfer of repayment of principal and interest on a loan made under this subchapter to the fund, the interest and sinking fund, or any account in the funds.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(l), eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 352, Sec. 12, eff. Sept. 1, 2003.

Sec. 17.897. CONSERVATION PROGRAM. (a) A conservation program is:

(1) an agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code;

(2) a research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation;

(3) a precipitation enhancement program in an area of the state where the program, in the board's judgment, would be most

effective; and

(4) any other agricultural water conservation program defined by board rule.

(b) The costs of a conservation program eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the program.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 13, eff. Sept. 1, 2003.

Sec. 17.898. CONSERVATION PROJECT. (a) A conservation project is a project that:

(1) improves water use efficiency of water delivery and application on existing irrigation systems;

(2) prepares irrigated land for conversion to dryland conditions;

(3) prepares dryland for more efficient use of natural precipitation;

(4) purchases and installs on public or private property devices designed to indicate the amount of water withdrawn for irrigation purposes;

(5) prepares and maintains land to be used for brush control activities in areas of the state where those activities in the board's judgment would be most effective, including activities conducted under Chapter 203, Agriculture Code; or

(6) implements any other agricultural water conservation project defined by board rule.

(b) The costs of a conservation project eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the project.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(n), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 14, eff. Sept. 1, 2003.

Sec. 17.899. ELIGIBLE FUND USES. (a) Money in the fund, excluding money in the interest and sinking fund, may be used by the board to:

(1) provide a grant to a state agency to fund a conservation program or conservation project, including a conservation program that provides funding to a political subdivision or person for a conservation project;

(2) provide a grant or loan to a political subdivision for a conservation program or conservation project;

(3) provide a linked deposit to an eligible financial institution for a loan to a person for a conservation project;

(4) pay for a board conservation program;

(5) make a transfer to the interest and sinking fund;

(6) pay the costs of a bond issuance; and

(7) pay for a board expense in administering the agricultural water conservation program under this subchapter.

(b) Money in the interest and sinking fund may be used for the payment of bonds or, to the extent there are funds in excess of bond payment requirements, for transfers to the fund, or any other account in the funds.

(c) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 17.895(6) if the requirements of Section 15.435 are satisfied.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 477, Sec. 15, eff. Aug. 30,

1993; Acts 2003, 78th Leg., ch. 200, Sec. 19(o), eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 352, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.15, eff. November 5, 2013.

Sec. 17.900. GRANT TO STATE AGENCY. (a) A state agency seeking a grant for a conservation program or conservation project must file an application with the board.

(b) In reviewing an application for a grant, the board shall

consider:

(1) the commitment of the state agency to water conservation; and

(2) the benefits that will be gained by making the grant.

(c) To approve the grant, the board must find that:

(1) the grant funds will supplement rather than replace money of the state agency;

(2) the public interest is served by providing the grant; and

(3) the grant will further water conservation in the state.

(d) If a state agency is applying for funds that have been provided by legislative appropriation for such state agency, the board shall review the application according to the terms of the legislative appropriation. To approve such grant, the board shall make the determination required by the legislative language.

(e) The board may make money available to a state agency in any manner that it considers feasible, including a grant agreement with the state agency.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.  
Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(p), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 16, eff. Sept. 1, 2003.

Sec. 17.901. GRANT OR LOAN TO POLITICAL SUBDIVISION. The board may make a grant or loan to a political subdivision for a conservation program or conservation project. A political subdivision seeking a grant or loan must file an application with the board.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.  
Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(q), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 17, eff. Sept. 1, 2003.

Sec. 17.902. REVIEW OF APPLICATION FOR AND APPROVAL OF GRANT. (a) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has

used other available resources to finance the use for which the application is being made;

(2) the willingness and ability of the political subdivision to raise revenue;

(3) the commitment of the political subdivision to water conservation; and

(4) the benefits that will be gained by making the grant.

(b) To approve a grant to a political subdivision, the board must find that:

(1) the grant funds will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further water conservation in the state.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(r), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 18, eff. Sept. 1, 2003.

Sec. 17.9021. APPLICATION FOR AND APPROVAL OF LOAN. (a) In reviewing an application by a political subdivision for a loan, the board shall consider the ability of the political subdivision to repay the loan and whether the loan will further water conservation in this state.

(b) To approve a loan to a political subdivision, the board must determine that:

(1) the public interest is served by providing the loan;

(2) the political subdivision has the ability to repay the loan; and

(3) the loan will further water conservation in the state.

(c) The board by rule shall establish the rate of interest it charges for a loan to a political subdivision.

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

Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL SUBDIVISION; DEFAULT; VENUE. The board may make a loan or grant available to a political subdivision in any manner the board considers economically feasible, including purchase of bonds or securities of the political subdivision or execution of a loan or grant agreement with the political subdivision. The board may not purchase bonds or securities that have not been approved by the attorney general and registered by the comptroller.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1233 (S.B. 660), Sec. 13, eff. September 1, 2011.

Sec. 17.903. CONTRACT AUTHORITY. (a) A political subdivision may borrow money for the purposes of this subchapter and may adopt necessary rules to carry out this subchapter.

(b) The board shall have the power to enter into any contracts to carry out the provisions of this subchapter.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 32, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 19(t), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 20, eff. Sept. 1, 2003.

Sec. 17.904. 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.905. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish an agricultural water conservation 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.906. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the agricultural water conservation linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of an agricultural water conservation 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 soil and water conservation district in which an applicant is located by a director of the district that states that:

(i) the applicant of the proposed project has a soil and water conservation plan approved by the district; and

(ii) the project furthers or implements the plan.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.907. 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 applications to the executive administrator.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.908. 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 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.909. 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.910. 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.911. 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(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

Sec. 17.912. RULES. The board shall adopt rules necessary to carry out this subchapter. Applications shall be in the form and manner as provided by board rules.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(u), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 21, eff. Sept. 1, 2003.

#### SUBCHAPTER K. ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.921. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply and sewer services under this subchapter.

(3) "Political subdivision" means a county, municipality, a nonprofit water supply corporation created and

operating under Chapter 67, or district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(4) "Water conservation" means 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.

(5) "Sewer services" and "sewer facilities" mean treatment works or individual, on-site, or cluster treatment systems such as septic tanks and include drainage facilities and other improvements for proper functioning of the sewer services and other facilities.

(6) "Economically distressed areas account" means the economically distressed areas account in the Texas Water Development Fund or the economically distressed areas program account in the Texas Water Development Fund II.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.881 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 979, Sec. 20, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 18.62, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, Sec. 38, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 5, eff. September 1, 2005.

Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically distressed areas account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing funds from the account for the state's participation in federal programs that provide assistance to political subdivisions.

(b) To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with

the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board's determination of financial assistance for the economically distressed area in a manner that assures the economically distressed area receives appropriate benefits from the savings. In no event shall financial assistance provided from the economically distressed areas account be used to provide water supply or wastewater service to any area that is not an economically distressed area.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.882 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1993, 73rd Leg., ch. 844, Sec. 6, eff. Aug. 30, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. [467](#)), Sec. 6, eff. September 1, 2005.

Sec. 17.9225. RESIDENTIAL WATER AND SEWER CONNECTION ASSISTANCE. (a) The legislature finds that, due to public health and sanitation concerns, it is in the public interest to use funds in the economically distressed areas account to provide financial assistance for the costs associated with the initial connection to public water supply and sanitary sewer systems of residences that otherwise benefit from financial assistance.

(b) A political subdivision may use financial assistance to pay:

(1) the costs of connecting a residence to a public water supply system constructed with financial assistance;

(2) the costs of installing yard water service connections;

(3) the costs of installing indoor plumbing facilities and fixtures;

(4) the costs of connecting a residence to a sanitary sewer system constructed with financial assistance;

(5) necessary connection and permit fees; and

(6) necessary costs related to the design of plumbing improvements described by this subsection.

(c) Assistance under this section shall only be provided to residents who demonstrate an inability to pay for the improvements described in Subsection (b) in accordance with board rules. If the board determines that a resident to whom assistance has been provided is ineligible to receive the assistance, the board may seek reimbursement from the resident. The board shall adopt rules to implement the provisions of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1301 (H.B. 2374), Sec. 1, eff. September 1, 2009.

Without reference to the amendment of this section, this section was repealed by Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 15, eff. September 1, 2005.

Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE. To be eligible for financial assistance under this subchapter, a county:

(1) must have a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available;

(2) must be located adjacent to an international border; or

(3) must be located in whole or in part within 100 miles of an international border and contain the majority of the area of a municipality with a population of more than 250,000.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.883 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990.

Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 16, eff.

September 1, 2005.

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

Sec. 17.927. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A political subdivision may apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply and sewer services to an economically distressed area for which the financial assistance is to be used.

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers;

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

(3) a project plan, prepared and certified by an engineer registered to practice in this state, that must:

(A) describe the proposed planning, design, and construction activities necessary to provide water supply and sewer services that meet minimum state standards; and

(B) identify the households to which the water supply and sewer services will be provided;

(4) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines;

(5) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project, including a statement prepared and certified by an engineer registered to practice in this state that the facilities do not meet minimum state standards;

(6) documentation that the appropriate political subdivision has adopted the model rules developed under Section 16.343;

(7) information identifying the median household income for the area to be served by the proposed project; and

(8) the total amount of assistance requested from the

economically distressed areas account.

(c) Before the board approves the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more effective use of water that meets the criteria established under Section 17.125.

(d) Before considering an application, the board may require the applicant to:

(1) provide documentation to the executive administrator sufficient to allow review of the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission on the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant and, if the review is performed, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.887 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(79), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 16.01, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 404, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 720, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 7, eff. September 1, 2005.

Sec. 17.928. 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 water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply 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 treatment works, the board may not deliver funds for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission or unless such a permit is not required by the commission.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.888 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 33, eff. Sept. 1, 2001.

Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION. (a) In passing on an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) the availability to the area to be served by the project of revenue or financial assistance from alternative sources for the payment of the cost of the proposed project;

(3) the financing of the proposed water supply and sewer project including consideration of:

(A) the budget and repayment schedule submitted

under Section 17.927(b)(4);

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board;

(4) whether the county and other appropriate political subdivisions have adopted model rules pursuant to Section 16.343 and the manner of enforcement of model rules; and

(5) the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the facility by using funds from the economically distressed areas account or any other financial assistance.

(b) At the time an application for financial assistance is considered, the board also must find that the area to be served by a proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.889 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1993, 73rd Leg., ch. 844, Sec. 7, eff. Aug. 30, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 8, eff. September 1, 2005.

Sec. 17.930. APPROVAL OR DISAPPROVAL OF APPLICATION. (a) The board may issue a decision to approve an application contingent on changes being made to the plan submitted with the application.

(b) After making the considerations provided by Section 17.929, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers

appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

(c) The board shall notify the applicant in writing of its decision.

(d) The board may require the applicant to provide local funds in an amount approved by the board under this subchapter, and the board shall provide the remaining funds from the economically distressed areas account.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.890 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1993, 73rd Leg., ch. 844, Sec. 8, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 404, Sec. 40, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 720, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 9, eff. September 1, 2005.

Sec. 17.931. APPLICATION AMENDMENT. (a) A political subdivision may request the board in writing to approve a change to or a modification of the budget or project plan included in its application.

(b) A change or modification may not be implemented unless the board provides its written approval.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.891 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990.

Sec. 17.932. METHOD OF FINANCIAL ASSISTANCE. (a) The board may provide financial assistance to political subdivisions by using money in the economically distressed areas account to purchase political subdivision bonds.

(b) The board may make financial assistance available to political subdivisions in any other manner that it considers feasible, including:

(1) contracts or agreements with a political subdivision for acceptance of financial assistance that establish any repayment based on the political subdivision's ability to repay the assistance and that establish requirements for acceptance of the assistance; or

(2) contracts or agreements for providing financial assistance in any federal or federally assisted project or program. Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.892 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990.

Sec. 17.933. TERMS OF FINANCIAL ASSISTANCE. (a) The board may use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, including a loan with zero interest, grant, or other type of financial assistance to be determined by the board taking into consideration the information provided by Section [17.927\(b\)\(7\)](#).

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Texas Department of Health issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide to the Texas Department of Health information necessary to make a determination, and the board and the Texas Department of Health may enter into necessary memoranda of understanding to carry out this subsection.

(b-1) In providing financial assistance in the form of a loan under this subchapter to a conservation and reclamation district created under authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, the board shall make the loan to the district without charging interest.

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized under Article III of the Texas Constitution, for purposes of this subchapter plus outstanding interest on those bonds.

(d) In determining the amount and form of financial assistance and the amount and form of repayment, if any, the board shall consider:

(1) rates, fees, and charges that the average customer to be served by the project will be able to pay based on a comparison of what other families of similar income who are similarly situated pay for comparable services;

(2) sources of funding available to the political subdivision from federal and private funds and from other state funds;

(3) any local funds of the political subdivision to be served by the project if the economically distressed area to be served by the board's financial assistance is within the boundary of the political subdivision; and

(4) the just, fair, and reasonable charges for water and wastewater service as provided in this code.

(e) In making its determination under Subsection (d)(1) of this section, the board may consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) The board may provide financial assistance money under this subchapter for treatment works as defined by Section 17.001 of

this code only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

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

Added by Acts 1989, 71st Leg., ch. 624, Sec. 2.21. Renumbered from Sec. 17.893 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(36), eff. Sept. 6, 1990. Amended by Acts 1991, 72nd Leg., ch. 422, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 844, Sec. 9, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.291, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 979, Sec. 21, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 404, Sec. 41, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 74, Sec. 1, eff. May 16, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 10, eff. September 1, 2005.

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

Sec. 17.934. SEWER CONNECTIONS. (a) Notwithstanding any other law, a political subdivision that is located in a county in which a political subdivision has received financial assistance under this subchapter or under Subchapter F, Chapter 15, of this code may:

- (1) provide for a sanitary sewer system; and
- (2) require property owners to connect to the sewer system.

(b) The board may require, as a condition for granting an application for financial assistance under this subchapter to a political subdivision for construction of sewer services, that the applicant exercise its authority under this section.

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

Sec. 17.935. GRANT STANDARDS. The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes) does not apply to financial assistance provided under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 422, Sec. 3, eff. Sept. 1, 1991.

Sec. 17.936. RECOVERY OF ECONOMICALLY DISTRESSED AREA IMPACT FEES. (a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) In this section:

(1) "Capital improvement costs" includes:

(A) the construction contract price;

(B) surveying and engineering fees;

(C) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees;

(D) fees actually paid or contracted to be paid to an independent, qualified engineer or financial consultant who is:

(i) preparing or updating the capital improvements plan; and

(ii) not an employee of the subdivision; and

(E) projected interest charges and other finance costs that are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements plan and that are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan of the subdivision.

(2) "Economically distressed areas program impact fees" means the pro rata share of the capital improvement costs attributable to each lot in an economically distressed area.

(c) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section [16.341](#); and

(2) an economically distressed area, as defined by Section [16.341](#).

(d) The provider of water or wastewater utility service to an economically distressed area may recover from a developer or

owner of an undeveloped lot economically distressed areas program impact fees as provided by rules adopted by the board.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 22, eff. June 16, 1995.

#### SUBCHAPTER L. WATER FINANCIAL ASSISTANCE BOND PROGRAM

Sec. 17.951. DEFINITIONS. In this subchapter:

(1) "Fund" means the Texas Water Development Fund II.

(2) "Resolution" means any resolution or order approved by the board authorizing the issuance of water financial assistance bonds.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.

The board by resolution may provide for the issuance of water financial assistance bonds, which shall be general obligation bonds of the state, in an aggregate principal amount not to exceed the principal amount authorized to be issued by the Texas Constitution.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 11, eff. September 1, 2005.

Sec. 17.953. CONDITIONS FOR ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS. (a) Water financial assistance bonds may be issued as various series and issues.

(b) Water financial assistance bonds may mature, serially or otherwise, not later than 50 years after the date on which they are issued.

(c) Water financial assistance bonds may be issued as bonds, notes, or other obligations as permitted by law and may be in the form and denominations and be issued in the manner and under the terms, conditions, and details as provided by resolution.

(d) Water financial assistance bonds may be sold at public or private sale at a price or prices and on terms determined by the board.

(e) Water financial assistance bonds shall be signed and



executed as provided by resolution.

(f) Water financial assistance bonds may bear no interest or bear interest at a rate or rates determined in accordance with law.

(g) Rates of interest on water financial assistance bonds may be fixed, variable, floating, adjustable, or otherwise, as determined by the board or determined pursuant to any contractual arrangements approved by the board. The resolution may provide for the payment of interest at any time or the periodic determination of interest rates or interest rate periods.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.954. BOND ENHANCEMENT AGREEMENTS; PAYMENT OF EXPENSES. (a) The board at any time and from time to time may enter into one or more bond enhancement agreements that the board determines to be necessary or appropriate to place the obligation of the board, as represented by the water financial assistance bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. A bond enhancement agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the board approves.

(b) The fees and expenses of the board in connection with the issuance of water financial assistance bonds and the providing of financial assistance to political subdivisions may be paid from money in the fund, provided that any payments due from the board under a bond enhancement agreement, other than fees and expenses, that relate to the payment of debt service on water financial assistance bonds constitute payments of principal of and interest on the water financial assistance bonds.

(c) Bond enhancement agreements may include, on terms and conditions approved by the board, interest rate swap agreements; currency swap agreements; forward payment conversion agreements; agreements providing for payments based on levels of or changes in interest rates or currency exchange rates; agreements to exchange cash flows or a series of payments; agreements, including options, puts, or calls, to hedge payment, currency, rate, spread, or other exposure; or other agreements that further enhance the

marketability, security, or creditworthiness of water financial assistance bonds.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.955. PERSONS DESIGNATED TO ACT AS AGENTS OF BOARD.

(a) In the resolution the board may delegate authority to one or more officers, employees, or agents designated by the board to act on behalf of the board during the time any series of water financial assistance bonds are outstanding to:

(1) fix dates, prices, interest rates, amortization schedules, redemption features, and interest payment periods;

(2) perform duties and obligations of the board under a bond enhancement agreement; and

(3) perform other procedures specified in the resolution.

(b) The person designated by the board may adjust the interest on water financial assistance bonds and perform all duties described in a bond enhancement agreement as necessary to permit the water financial assistance bonds to be sold or resold at par in conjunction with secondary market transactions.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.956. TEXAS WATER DEVELOPMENT FUND II. The fund is a special fund in the state treasury, and all water financial assistance bond proceeds shall be deposited in the state treasury to the credit of the fund. The fund shall contain a "state participation account," an "economically distressed areas program account," and a "financial assistance account," and proceeds from the sale of water financial assistance bonds issued for the purpose of providing financial assistance to political subdivisions shall be credited to such accounts as provided by resolution by the board. By resolution, the board may create additional accounts within the fund as the board determines are necessary or convenient for the administration of the fund.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.957. STATE PARTICIPATION ACCOUNT. (a) The Texas

Water Development Fund II state participation account, referred to as the "state participation account," is an account established within the fund in the state treasury. Transfers shall be made from this account as provided by this subchapter.

(b) The state participation account is composed of:

(1) money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Section [16.131](#);

(2) money from the sale, transfer, or lease of a project described in Subdivision (1) that was acquired, constructed, reconstructed, developed, or enlarged with money from the state participation account;

(3) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for projects described in Section [16.131](#);

(4) investment income earned on money on deposit in the state participation account;

(5) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section [15.434](#); and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the state participation account.

(c) Money on deposit in the state participation account may be used by the board for projects described in Section [16.131](#) in the manner that the board determines necessary for the administration of the fund.

(d) The board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Subsection (b)(5) of this section if the requirements of Section [15.435](#) are satisfied.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. [4](#)), Sec. 2.16, eff. November 5, 2013.

Sec. 17.958. ECONOMICALLY DISTRESSED AREAS PROGRAM

ACCOUNT. (a) The Texas Water Development Fund II economically distressed areas program account, referred to as the "economically distressed areas program account," is an account established within the fund in the state treasury. Transfers shall be made from this account as provided by this subchapter.

(b) The economically distressed areas program account is composed of:

(1) money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Subchapter K;

(2) money provided by the federal government, the state, political subdivisions, and private entities for the purpose of paying debt service on water financial assistance bonds issued for purposes provided by Subchapter K;

(3) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for purposes provided by Subchapter K;

(4) investment income earned on money on deposit in the economically distressed areas program account; and

(5) any other funds, regardless of their source, that the board directs be deposited to the credit of the economically distressed areas program account.

(c) Money on deposit in the economically distressed areas program account may be used by the board for purposes provided by Subchapter K in the manner that the board determines necessary for the administration of the fund.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.959. FINANCIAL ASSISTANCE ACCOUNT. (a) The Texas Water Development Fund II water financial assistance account, referred to as the "financial assistance account," is an account established within the fund in the state treasury. Transfers shall be made from this account as provided by this subchapter.

(b) The financial assistance account is composed of:

(1) money and assets attributable to water financial assistance bonds designated by the board as issued for purposes

described in Section 49-d-8, Article III, Texas Constitution, other than for purposes described in Sections 17.957 and 17.958;

(2) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for purposes described in Section 49-d-8, Article III, Texas Constitution, other than for purposes described in Sections 17.957 and 17.958;

(3) investment income earned on money on deposit in the financial assistance account; and

(4) any other funds, regardless of their source, that the board directs be deposited to the credit of the financial assistance account.

(c) Money on deposit in the financial assistance account may be used by the board for any one or more of the purposes described in Section 49-d-8, Article III, Texas Constitution, other than for purposes described in Sections 17.957 and 17.958, in the manner that the board determines necessary for the administration of the fund.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.960. BOND RESOLUTIONS. (a) In the resolution, the board may make additional covenants with respect to water financial assistance bonds and may provide for:

(1) the flow of funds;

(2) the establishment of accounts and subaccounts within the fund that the board determines are necessary for the administration of the fund;

(3) at the discretion of the board, the payment of fees and expenses of the board in connection with providing financial assistance to political subdivisions as the board determines are necessary for the administration of the fund;

(4) the maintenance, investment, and management of money within the fund and any accounts established by resolution by the board; and

(5) any other provisions and covenants that the board determines are necessary for the administration of the fund.

(b) The board may invest and reinvest money in the fund and

any account therein in any obligations or securities as provided by the resolution or by rule adopted by the board.

(c) The board may adopt and have executed other proceedings, agreements, or trust agreements or instruments necessary in the issuance of water financial assistance bonds, including, without limitation, bond enhancement agreements.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.961. TRANSFERS TO REVOLVING FUNDS. (a) In order to implement and administer a revolving loan program established under Title VI of the Federal Water Pollution Control Act (33 U.S.C. Section 1381 et seq.), the board may direct the comptroller to transfer amounts from the financial assistance account to the state water pollution control revolving fund created by Section 15.601 to provide financial assistance pursuant to this subchapter.

(b) In order to implement and administer a revolving loan program established by any other federal legislation, including, without limitation, Title XIV of the federal Public Health Service Act, or any federal agency program under which an additional state revolving fund, as defined in Section 15.602, has been established, the board may direct the comptroller to transfer amounts from the financial assistance account to such additional state revolving fund to provide financial assistance pursuant to this subchapter.

(c) The board shall use the state water pollution control revolving fund in accordance with Section 15.604(a)(4) and Section 603(d)(4), Federal Water Pollution Control Act (33 U.S.C. Section 1383), as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are deposited into the state water pollution control revolving fund, and to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.

(d) In the event amounts are transferred to any additional state revolving fund, as defined in Section 15.602, pursuant to Subsection (b), the board shall, to the extent permitted by the federal legislation or federal agency program under which such

additional state revolving fund was established, use the additional state revolving fund as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are deposited into the additional state revolving fund, and to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.9615. TRANSFERS TO RURAL WATER ASSISTANCE FUND.

(a) The board may direct the comptroller to transfer amounts from the financial assistance account to the rural water assistance fund to provide financial assistance under this subchapter for the purposes provided in Section 15.994.

(b) The board shall use the rural water assistance fund as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the rural water assistance fund and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.22, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1275, Sec. 3(47), eff. Sept. 1, 2003.

Sec. 17.9616. TRANSFER TO WATER INFRASTRUCTURE FUND. (a)

The board may direct the comptroller to transfer amounts from the financial assistance account to the water infrastructure fund to provide financial assistance under this subchapter for the purposes provided in Section 15.974.

(b) The board shall use the water infrastructure fund as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the water infrastructure fund and to

be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.23, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1275, Sec. 3(48), eff. Sept. 1, 2003.

Sec. 17.9617. TRANSFERS TO STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS. (a) The board may direct the comptroller to transfer money or other assets from an account in the fund, including from the financial assistance account or from the state participation account, to the state water implementation revenue fund for Texas to provide financial assistance under this subchapter and Subchapter H, Chapter 15.

(b) A transfer of money or other assets from an account in the fund may not cause general obligation bonds that are payable from the fund or from an account in the fund to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution, as determined by the board.

(c) The board shall use the state water implementation revenue fund for Texas, or an account in that fund, as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the state water implementation revenue fund for Texas, or the account in that fund, and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.

Added by Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.17, eff. November 5, 2013.

Sec. 17.962. STATE APPROVALS. (a) Water financial assistance bonds may not be issued under this subchapter unless such issuance has been reviewed and approved by the bond review board.

(b) The proceedings relating to the water financial assistance bonds issued under this subchapter are subject to review



and approval by the attorney general in the same manner and with the same effect as provided by Chapter 1371, Government Code.

(c) After approval by the attorney general of the proceedings relating to water financial assistance bonds issued under this subchapter, registration of the proceedings by the comptroller, and delivery of the water financial assistance bonds to the purchasers, the water financial assistance bonds are incontestable and constitute general obligations of the state. Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.413, eff. Sept. 1, 2001.

Sec. 17.963. PAYMENT OF BOARD OBLIGATIONS. (a) The board shall cooperate with the comptroller to develop procedures for the payment of principal and interest on water financial assistance bonds and any obligation under a bond enhancement agreement, as the same become due and owing.

(b) If there is not enough money in any account of the fund available to pay the principal and interest on water financial assistance bonds issued for such account, including money to make payments by the board under a bond enhancement agreement with respect to principal or interest on such water financial assistance bonds, the board shall notify the comptroller of such occurrence, and the comptroller shall transfer out of the first money coming into the state treasury not otherwise appropriated by the constitution the amount required to pay the obligations of the board that are due and owing. The comptroller shall make the transfers required by Section 49-d-8, Article III, Texas Constitution, and this subchapter in the manner specified in the resolution.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.964. ELIGIBLE SECURITY. Water financial assistance bonds are eligible to secure deposits of public funds of the state and political subdivisions of the state. Water financial assistance bonds are lawful and sufficient security for deposits to the extent of their face value.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.965. LEGAL INVESTMENTS. Water financial assistance bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds and other public funds of the state

and its agencies and of political subdivisions of the state.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.966. MUTILATED, LOST, OR DESTROYED BONDS. The board may provide for the replacement of mutilated, lost, or destroyed water financial assistance bonds.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.967. REFUNDING BONDS. (a) The board by resolution may provide for the issuance of water financial assistance bonds to refund outstanding bonds and water financial assistance bonds issued under this chapter and federal contractual obligations incurred under Section 49-d, Article III, Texas Constitution.

(b) The board may sell the refunding water financial assistance bonds and use the proceeds to retire any of the outstanding obligations described in Subsection (a), exchange the refunding water financial assistance bonds for the outstanding bonds or water financial assistance bonds, or refund any of the outstanding obligations described in Subsection (a) in the manner provided by any other applicable statute, including Chapter 1207, Government Code.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.414, eff. Sept. 1, 2001.

Sec. 17.968. SALE OF POLITICAL SUBDIVISION BONDS BY THE

BOARD; USE OF PROCEEDS. (a) The board may sell or dispose of political subdivision bonds or other assets purchased with money in the fund to any person, including the Texas Water Resources Finance Authority, or to another fund administered by the board, including the state water implementation revenue fund for Texas, and the board, in such manner as it shall determine, may apply the proceeds of the sale of political subdivision bonds or other assets held by the board to:

(1) pay debt service on water financial assistance bonds issued under this subchapter; or

(2) provide financial assistance to political subdivisions for any one or more of the purposes authorized by Section 49-d-8, Article III, Texas Constitution.

(a-1) A sale or disposition of political subdivision bonds or other assets may not cause general obligation bonds that are payable from the fund or from an account in the fund to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution, as determined by the board.

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

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.18, eff. November 5, 2013.

Sec. 17.969. TAX EXEMPT BONDS. Since the board is performing an essential governmental function in the exercise of the powers conferred on it by this chapter, water financial assistance bonds issued under this subchapter and the interest and income from the water financial assistance bonds, including any profit made on the sale of water financial assistance bonds, and all fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of water financial assistance bonds are free from taxation and assessments of every kind by this state and any city, county, district, authority, or other political subdivision of this state.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.970. ENFORCEMENT BY MANDAMUS. Payment of water financial assistance bonds and obligations incurred under bond enhancement agreements and performance of official duties prescribed by Section 49-d-8, Article III, Texas Constitution, and this subchapter may be enforced in a court of competent jurisdiction by mandamus or other appropriate proceedings. Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03.

Sec. 17.971. 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 water financial assistance bonds and the execution of bond enhancement agreements, but this subchapter is wholly sufficient authority for the issuance of water financial assistance bonds, 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.

(c) In exercising the powers granted to the board under this subchapter, the board may exercise any powers granted to it under this chapter and Chapter 16 including the powers described in Subchapters D, E, F, G, and K, notwithstanding any provision in this chapter or Chapter 16 that may be inconsistent with or in conflict with the provisions of this subchapter as a result of the establishment of the fund as a fund separate and distinct from the existing Texas Water Development Fund, it being the intent of the legislature that the financial assistance made available to political subdivisions under this subchapter, in pursuance of the authority granted by Section 49-d-8, Article III, Texas Constitution, be provided by the board in the manner the board deems necessary to achieve the purposes of Section 49-d-8, Article III, Texas Constitution, and notwithstanding any other existing provisions in this chapter or Chapter 16, the provisions of this chapter and Chapter 16 shall be inclusive of the provisions of this

subchapter and Section 49-d-8, Article III, Texas Constitution. Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.03. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.415, eff. Sept. 1, 2001.

SUBCHAPTER M. REQUIRED TRAINING FOR APPLICANTS FOR AND RECIPIENTS OF ECONOMICALLY DISTRESSED AREAS PROGRAM FINANCIAL ASSISTANCE

Sec. 17.991. DEFINITIONS. In this subchapter:

(1) "Operating entity" means the governing body of a political subdivision responsible for providing water supply and sewer services and the management of its water and sewer system, as defined by rules of the board.

(2) "Political subdivision" has the meaning assigned by Section 17.921.

Added by Acts 2001, 77th Leg., ch. 720, Sec. 1, eff. Sept. 1, 2001.

Sec. 17.992. TRAINING FOR APPLICANTS. The board may require the operating entity of a political subdivision that applies for financial assistance under Subchapter K to complete a training program approved by the board if the board determines that training is necessary.

Added by Acts 2001, 77th Leg., ch. 720, Sec. 1, eff. Sept. 1, 2001.

Sec. 17.993. TRAINING FOR OPERATING ENTITIES. (a) The commission or the board may evaluate whether an operating entity needs training if the operating entity:

(1) requests financial assistance or an amendment to the project plan or budget;

(2) requests more time to meet its obligations under a repayment schedule;

(3) does not provide required documentation; or

(4) has a history of compliance problems, as determined by the commission.

(b) The board or the commission may determine that training is necessary if, after an examination and evaluation of the operating entity's managerial, financial, and technical capabilities, the board or commission finds that the operating

entity's managerial, financial, or technical capabilities are inadequate to ensure the project will meet program requirements or remain financially viable.

(c) The commission by rule shall establish a preenforcement threshold of noncompliance at which the commission may notify the board that an operating entity needs training.

(d) If the commission assesses a penalty against an operating entity in an enforcement action, the enforcement order must contain a provision requiring that the operating entity receive training as ordered by the board. The commission shall notify the board when the commission assesses a penalty against an operating entity.

Added by Acts 2001, 77th Leg., ch. 720, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 12, eff. September 1, 2005.

Sec. 17.994. TRAINING REQUIREMENTS. (a) The board by order shall require an operating entity to undergo appropriate training if the board:

(1) determines that training is necessary under Section 17.992 or 17.993(a) or (b); or

(2) receives notice from the commission that the commission finds that training is necessary under Section 17.993.

(b) The board shall refer the operating entity to an appropriate individual, association, business organization, or governmental entity for training required by the order.

(c) The person providing the training shall conduct an assessment of the operating entity for which training is ordered, determine who needs training, and devise a training program to address the deficiencies identified in the assessment.

(d) The person providing the training shall present a proposed training program to the board for approval. If the training program is approved by the board, the person shall conduct the required training.

(e) On completion of the training, the person who provided the training shall issue a certificate of completion to the

participants in the training and to the board.

(f) A political subdivision shall reimburse a participant in training for reasonable expenses incurred in completing the training.

(g) Not later than January 15 each year, each person who provides training under this section shall report to the board a list of political subdivisions for which the person provided training required under this section during the previous calendar year.

Added by Acts 2001, 77th Leg., ch. 720, Sec. 1, eff. Sept. 1, 2001.