

CHAPTER 1103

S.B. No. 585

AN ACT

relating to the water financing programs of the Texas Water Development Board and granting authority to issue bonds or notes, to use of proceeds, and to authorized investments.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 17, Water Code, as amended, is amended to read as follows:

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

(4) "Executive director" means the executive director of the Texas Water 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" [~~"Project"~~] means:

(A) any engineering undertaking or work to conserve and develop surface or subsurface 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, and other water storage 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 by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods; or

(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.

(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, Section 49-d-2, 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, Section 49-d-2, 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, 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, treatment works, or flood control measures through the purchase of bonds or other obligations of the political subdivision [~~"Weighted average effective interest rate" means the rate of interest computed by dividing the total value of all coupons attached to the pertinent bonds issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond previously issued.~~]

(18) [(9)] "Bonds" means [all] Texas Water Development Bonds [~~now or hereafter~~] authorized by the Texas Constitution.

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

(20) [(11)] "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, Section 49-d-2, of the Texas Constitution.

(21) [(12)] "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, Section 49-d-2, of the Texas Constitution.

(22) [(13)] "Lending rate" means *the rate of interest established by the board as the lending rate* [~~an amount of interest calculated by adding one-half percent to the weighted average of the cost of uncommitted funds secured from the sale of Texas Water Development Bonds as of the date of the latest sale of Texas Water Development Bonds.~~]

[(14)] "Net effective interest rate" means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.]

(23) [(14)] "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) [(15)] "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.

Sec. 17.002. OPEN MEETINGS AND OPEN RECORDS LAWS. Nonprofit water supply corporations which receive any assistance under this chapter are subject to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

[Sections 17.003-17.010 reserved for expansion]

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 and not to exceed \$980 million pursuant to Article III, Section 49-d-2, 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, and 49-d-2, of the Texas Constitution, in addition to the contract with the United States or any of its agencies.

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.

Sec. 17.013. SALE PRICE OF BONDS. The board may [not] sell an installment or series of bonds *at prices determined by the board* [~~for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance~~].

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.*

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Sec. 17.027. **PAYMENT BY TREASURER.** The State Treasurer shall pay the principal of the bonds as they mature and the interest as it becomes payable.

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, and 49-d-2, of the Texas Constitution and by this subchapter may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

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* [these] bonds and use the proceeds to retire the outstanding bonds issued under this chapter, [~~or the board may~~] exchange the refunding bonds for the outstanding bonds, *or refund the bonds in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).* [~~The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the board with respect to refunding bonds are governed by the provisions of this chapter relating to original bonds to the extent that they may be made applicable.~~]

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

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.

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.

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.

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

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 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

[Sections 17.036 [17.035]–17.070 reserved for expansion]

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.

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) and (h) 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, and 49-d-2, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water supply [development] account," and other money for deposit therein as provided in this chapter shall be credited to the water supply [development] account.

(c) The water supply [development] account may be used for any water supply project and in any manner consistent with the provisions of the constitution, but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers.

(d) All 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.

(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 \$200 million in water development bonds authorized by Article III, Section 49-d-2, 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.

Sec. 17.073. **WATER DEVELOPMENT CLEARANCE FUND.** 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.

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

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.

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.

Sec. 17.077. **CREDITS TO CLEARANCE FUND.** 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, and 49-d-2, of the Texas Constitution, [~~which shall be deposited in accordance with Sections 17.072, 17.134, and 17.180 of this code,~~] and the proceeds from the sale, refinancing, or other liquidation of the investments made under *Section* [Sections] 17.083[, 17.085, and 17.086] 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.

Sec. 17.078. **TRANSFERS AT END OF FISCAL YEAR.** 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.

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;
- (2) the amount of principal of 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 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 during the fiscal year;
- (2) all collection charges and exchanges on the 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.

Sec. 17.080. **ADDITIONAL FUNDS FOR PAYMENT OF BONDS.** 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 as much money as is available in the clearance fund, the State Treasurer shall transfer it of the first money coming into the treasury, not otherwise appropriated by the institution, the amount required to pay principal and interest on the bonds during the fiscal year.

Sec. 17.081. **TRANSFERS TO ADMINISTRATIVE FUND.** If money remains in the 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.

Sec. 17.082. **TRANSFERS TO DEVELOPMENT FUND.** If money remains in the clearance fund after making the transfers provided in Sections 17.079 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.

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 sinking fund, including the reserve portion of the interest and sinking fund* in:

- (1) direct obligations of the United States;
- (2) other obligations unconditionally guaranteed by the United States;
- (3) *obligations [bonds]* of the State of Texas; and
- (4) *obligations [bonds]* of counties, cities, and other political subdivisions of *any [the] state of the United States*, except bonds issued by a political subdivision to finance a project or treatment works described in this chapter.

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.

~~Sec. 17.085. **INTEREST AND SINKING FUND INVESTMENTS.** The board may invest the money in the interest and sinking fund, except the money in the reserve portion of the fund, only in direct obligations of the United States or obligations unconditionally guaranteed by the United States that are scheduled to mature prior to the date the board must have money available for its intended purpose.~~

~~[Sec. 17.086. **DEVELOPMENT FUND INVESTMENTS.** Surplus money in the development fund that is not needed for at least 90 days shall be invested in direct obligations of the United States or in other obligations unconditionally guaranteed by the United States maturing on or before the contemplated date on which the money will be needed.~~

~~[Sec. 17.087.] **SALE OF SECURITIES.** All of the bonds and obligations owned in the 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 or in any account in the development fund at the governing market price.~~

Sec. 17.086 [17.088]. **TRANSFERS TO BE MADE BY COMPTROLLER.** The comptroller shall make the transfers required by this subchapter.

[Sections 17.087 [17.089]–17.120 reserved for expansion]

SUBCHAPTER D. ASSISTANCE TO POLITICAL SUBDIVISIONS
FOR WATER SUPPLY PROJECTS

Sec. 17.121. FINANCIAL ASSISTANCE. The *water supply* [development] account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of *water supply* projects.

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) [(4)] the amount of state financial assistance requested;
- (6) [(5)] the plan for repaying the total cost of the *water supply* project; [and]
- (7) *the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision; and*
- (8) [(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 affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules. The rules do not restrict or prohibit the board from requiring additional factual material from an applicant].~~

(b) [(a)] 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) [(d)] 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.

Sec. 17.123. FINDINGS REGARDING PERMITS [CERTIFICATE OF COMMISSION OR APPROVAL BY COMMISSION]. [(a)] The board shall not deliver funds pursuant to an application for financial assistance until the *executive administrator makes a written finding* [political subdivision has furnished the board a resolution adopted by the commission certifying]:

- (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 underground water development has the right to use water that the *water supply* project will provide.

~~[(b) If an application includes a proposal for a waste water treatment plant, the board may not deliver funds for the waste water treatment plant until the applicant has obtained a permit for construction and operation of the waste water treatment plant and approval of the plans and specifications for the plant from the commission.]~~

Sec. 17.124. CONSIDERATIONS IN PASSING ON APPLICATION. (a) 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 and the benefit of the *water supply* project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those *water supply* 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 *water supply* project, including interest;

(3) whether the political subdivision can reasonably finance the *water supply* project without assistance from the state;

(4) the relationship of the *water supply* project to the overall, statewide water needs; and

(5) the relationship of the *water supply* project to the state water plan.

(b) In passing on an application for financial assistance for regional facilities, water facilities for a political subdivision that is converting from the use of groundwater to the use of surface water, or a *water supply* project that includes flood control, the board shall consider the factors set out for political subdivisions in Subsection (a) of this section except the board is not required to consider the factor set out in Subdivision (3) of that subsection.

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 participation in the *water supply* project;

(2) that the political subdivision cannot reasonably finance the *water supply* project without state assistance in the amount finally approved by the board; and

(3) 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, 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 (2)(B) [(14)(B)], Section 17.001, of this code and that the board ~~department~~ 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.

(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 the 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.

Sec. 17.126 [17.1251]. FINDINGS FOR REGIONAL FACILITIES. In approving an application for financial assistance for regional facilities, water facilities for a political subdivision that is converting from the use of groundwater to the use of surface water, or ~~[a project that includes]~~ flood control measures, the board shall make the findings required by Subsection (a), Section 17.125 of this code, except the board is not required to make the finding set out in Subdivision (2) of that subsection.

Sec. 17.127 [17.1252]. 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.

Sec. 17.128 [17.1253]. 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.

[Sections 17.129–17.170 reserved for expansion]

**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.

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

Sec. 17.173 [17.126]. METHOD OF FINANCIAL ASSISTANCE. The board may provide financial assistance by using money in the water supply ~~[development]~~ account, the water quality enhancement account, and the flood control account to purchase bonds or other obligations ~~[securities]~~ issued by the political subdivision to finance the project. The board may purchase bonds or other obligations ~~[securities]~~ that are secondary or subordinate to other bonds or obligations ~~[securities]~~ issued by the political subdivision, including ~~[to finance the same project. The board may purchase]~~ 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 of a political subdivision issued for the purpose of refunding bonds issued for the construction of any projects described in this chapter. ~~[However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.]~~

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.

Sec. 17.175 [17.127]. 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.

Sec. 17.176 [17.128]. 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 [17.126] 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* [Section 17.126 of this code].

Sec. 17.177 [17.129]. 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.

Sec. 17.178 [17.130]. 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.

Sec. 17.179 [17.131]. SECURITY FOR BONDS. (a) 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) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the project.

Sec. 17.180 [17.132]. DEFAULT. [(a)] In the event of a default in payment of the principal of or interest on bonds purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

~~[(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.]~~

Sec. 17.181 [17.133]. SALE OF BONDS BY BOARD. [(a)] The board may sell or dispose of bonds purchased with money in the water supply [development] account, the water quality enhancement account, or the flood control account. ~~[The board may not sell the bonds for less than amortized value and accrued interest.]~~

~~[(b) The board shall first offer the bonds at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.]~~

~~[(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.]~~

Sec. 17.182 [17.134]. PROCEEDS FROM SALE. *Unless used to pay debt service on bonds issued under this chapter, the* [The] proceeds from the sale of political subdivision bonds held by the board shall be credited to the [water development] account *from which financial assistance was made to the political subdivision*, except that accrued interest shall be credited to the interest and sinking fund.

Sec. 17.183 [17.135]. CONSTRUCTION CONTRACT REQUIREMENTS. 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; and
- (3) that payment be made in partial payments as the work progresses;
- (4) that each partial payment shall not exceed 90 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 10 percent retainage may be made by the political subdivision with approval of the *executive administrator* [~~development fund manager~~];
- (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 development fund manager in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and
- (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.

Sec. 17.184 [17.136]. 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.

Sec. 17.185 [17.137]. INSPECTION OF PROJECTS. (a) The board may inspect the construction of a project at any time to assure that:

- (1) the contractor is substantially complying with the *approved* engineering plans of the project [~~as submitted when approval of the feasibility of the project was sought~~]; and
 - (2) the contractor is constructing the project in accordance with sound engineering principles.
- (b) Inspection of a project by the board does not subject the state to any civil liability.

Sec. 17.186 [17.138]. ALTERATION OF PLANS. After the *executive administrator* [~~development fund manager~~] approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the *executive administrator* [~~development fund manager~~] 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.

Sec. 17.187 [17.139]. CERTIFICATE OF APPROVAL. The *executive administrator* [development fund manager] may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

- (1) failure to construct the project according to approved plans;
 - (2) failure to construct the works in accordance with sound engineering principles;
- or
- (3) failure to comply with any term of the contract.

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 Article 1112, Revised Statutes, or any other 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.

[Sections 17.140–17.170 reserved for expansion]

~~[SUBCHAPTER E. BOND PURCHASES FOR WATER QUALITY
ENHANCEMENT PURPOSES~~

~~[Sec. 17.171. FINANCIAL ASSISTANCE. The board shall use funds in the water quality enhancement account to provide financial assistance through the purchase of bonds or other obligations of political subdivisions pursuant to an application for financial assistance approved by it.~~

~~[Sec. 17.172. OTHER FINANCIAL ASSISTANCE. 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. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.~~

~~[Sec. 17.173. BOND MATURITY. The board may not purchase bonds or other obligations which have a maturity date more than 50 years from the date of issuance.~~

~~[Sec. 17.174. INTEREST RATE. (a) Except as provided in Subsection (b) of this section, bonds and other obligations purchased by the board on or after September 1, 1977, with money in the water quality enhancement account pursuant to Subchapters F and G of 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) Outstanding prior lien bonds purchased by the board under Section 17.172 of this code may but need not bear the interest rate provided in Subsection (a) of this section, but may be purchased for such price or prices as will accomplish the objectives of Section 17.172 of this code.~~

~~[Sec. 17.175. APPROVAL AND REGISTRATION. The board shall not purchase any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.~~

~~[Sec. 17.176. BONDS INCONTESTABLE. The bonds or other obligations 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.~~

~~[Sec. 17.177. SECURITY FOR BONDS. (a) Bonds or other obligations purchased by the board under this subchapter shall be supported by:~~

~~(1) all or part of the net revenue from the operation of the treatment works;~~

~~(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) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds, if any, superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the treatment works.~~

~~(c) The board has the exclusive responsibility to specify terms and conditions of the financial assistance, including all maturity schedules which are necessary in the opinion of the board to achieve the best security for the state which the applicant is reasonably capable of providing.~~

~~[Sec. 17.178. DEFAULT. (a) In the event of a default in payment of the principal of or interest on bonds or other obligations purchased by the board or of a default in payment of amounts due under a loan agreement executed under the provisions of Subchapters F and G of this chapter or of a failure to perform any term or condition agreed to or of any other default as defined in the proceedings or indentures authorizing the issuance of the bonds or in any other obligation or loan agreement, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.~~

~~(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.~~

~~[Sec. 17.179. SALE OF BONDS BY BOARD. (a) The board may sell or dispose of bonds or other obligations purchased with money in the water quality enhancement account at not less than amortized value and accrued interest.~~

~~(b) The board shall first offer the bonds or other obligations at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.~~

~~(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds or other obligations at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale of such bonds or other obligations so purchased, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.~~

~~[Sec. 17.180. PROCEEDS FROM SALE. The proceeds from the sale of such political subdivision bonds or other obligations held by the board shall be credited to the water quality enhancement account, except that accrued interest shall be credited to the interest and sinking fund.]~~

[Sections 17.189–17.270 [17.181 to 17.220] reserved for expansion]

SUBCHAPTER F. FINANCIAL ASSISTANCE FOR WATER

QUALITY ENHANCEMENT PURPOSES [G. ALTERNATIVE PROGRAM

FOR FINANCIAL ASSISTANCE FOR CONSTRUCTION OF TREATMENT WORKS]

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 and 49-d-2, of the Texas Constitution to political subdivisions of the state for the construction of treatment works.

Sec. 17.272. [DEFINITIONS. In this subchapter:

~~[(1) "Water quality enhancement" means the construction of treatment works by political subdivisions with loans provided with water quality enhancement funds.~~

~~[(2) "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 intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including sites therefor 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 such treatment; and 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 facilities to provide for the collection, control, and disposal of waste heat.~~

~~[(3) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, the expense of any condemnation or other legal proceeding, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.~~

~~[(4) "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, Section 49-d-2, of the Texas Constitution.~~

~~[(5) "Political subdivision" means the state, 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.~~

~~[(6) "Loans" means purchase by the state of the bonds or other obligations of a political subdivision with water quality enhancement funds.~~

~~[(7) "Financial assistance" means any loan of water quality enhancement funds made to a political subdivision for the construction of treatment works through the purchase of bonds or other obligations of the political subdivision.~~

[Sec. 17.273.] FINANCIAL ASSISTANCE. The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement.

Sec. 17.273 [17.274]. 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.

Sec. 17.274 [17.275]. 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) [(4)] the amount of state financial assistance requested;
- (6) [(5)] the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(7) [(6)] the plan for repaying the financial assistance; and

(8) [(7)] 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.*

Sec. 17.275 [17.276]. CONSIDERATIONS IN PASSING ON APPLICATION. (a) 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 and the benefit of the treatment works to such water quality needs in relation to the needs of other waters requiring state assistance in any manner and the benefits of those treatment works to the other waters;

(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;

(3) whether the political subdivision can reasonably finance the treatment works without assistance from the state;

(4) the relationship of the treatment works to the overall, statewide water quality needs;

(5) the relationship of the treatment works to water quality planning for the state; and

(6) 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.

(b) In passing on an application for financial assistance for regional facilities, the board shall consider the factors set out for political subdivisions in Subsection (a) of this section except the board is not required to consider the factor set out in Subdivision (3) of that subsection.

Sec. 17.276 [17.277]. ACTION ON APPLICATION. (a) After an application is received for financial assistance, the development fund manager 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, the amount of any such assistance, and in consultation with and pursuant to agreement with the political subdivision, and except as provided by Subsection (d) of this section, the board shall determine the location, time, design, scope, and all other aspects of the construction of treatment works to be performed.

(d) The commission shall review and approve plans and specifications for all treatment works 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. To avoid duplicate review and approval by two or more state agencies, review and approval of plans and specifications under this subsection by the Texas Department of Health is not required.

(e) Except as provided by Subsection (d) of this section, 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) [~~If the board grants an application in whole or part, financial assistance shall be funded by the board in accordance with Subchapter E of this chapter.~~] 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.

Sec. 17.277 [17.278]. APPROVAL OF APPLICATION. (a) The board by resolution may approve an application if, after considering the factors listed in Section 17.275 [17.276] of this code and any other relevant factors, the board finds:

(1) that the public interest will benefit from state participation in the financing of the treatment works; and

(2) that the political subdivision cannot reasonably finance the treatment works without state assistance in the amount finally approved by the board.

(b) In approving an application for financial assistance for regional facilities, the board shall make the finding required by Subsection (a)(1) of this section.

(c) *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 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.*

(d) *The board may not require a program of water conservation to be adopted under Subsection (c) 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.*

(e) *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.*

(f) *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.*

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

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.*

Sec. 17.279 [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.

~~[Sec. 17.279. CONSTRUCTION CONTRACT REQUIREMENTS. The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of treatment works:~~

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

~~[(2) that each contractor awarded either a design/construct contract or construction contract furnish performance and payment bonds each of which 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 each of which 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 90 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, the 10 percent retainage requirement may be reduced by the political subdivision with approval of the development fund manager;~~

~~[(5) that payment of the retainage remaining due on 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 development fund manager in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and~~

~~[(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.~~

~~[Sec. 17.280. 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 the treatment works. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.~~

~~[Sec. 17.281. BOARD INSPECTION. (a) The board may inspect the construction of treatment works at any time to assure that:~~

~~[(1) the contractor is substantially complying with the engineering plans of the treatment works as submitted when approval of the feasibility of the treatment works was sought; and~~

~~[(2) the treatment works are being constructed in accordance with sound construction principles.~~

~~[(b) Inspection of treatment works by the board does not subject the state to any civil liability.~~

~~[Sec. 17.282. ALTERATION OF PLANS. After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the board authorizes the alteration.~~

~~[Sec. 17.283. CERTIFICATE OF APPROVAL. The development fund manager may consider the following as grounds for refusal to give a certificate of approval for any construction contract:~~

~~[(1) failure to construct the treatment works according to approved plans;~~

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

~~[(3) failure to comply with any term of the contract.~~

~~[Sec. 17.284. OBTAINING FINANCIAL ASSISTANCE. (a) In order to obtain financial assistance under this subchapter, a political subdivision may authorize and issue revenue bonds for the purpose of constructing treatment works and sell such bonds to the board in such amounts as may be determined by the governing body of the political subdivision and approved by the board.~~

~~[(b) Notwithstanding the provisions of Article 1112, Revised Civil Statutes of Texas, 1925, as amended, or any other general or special law or charter provisions to the contrary, a political subdivision may authorize, issue, and sell such revenue bonds as provided herein and create any encumbrance in connection therewith by a majority vote of the governing body of the political subdivision without the necessity of any election.]~~

[Sections 17.280–17.770 reserved for expansion]

SUBCHAPTER G [H]. 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, Section 49-d-2, 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.

Sec. 17.772. [DEFINITIONS. In this subchapter:

~~[(1) "Flood control funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-2, of the Texas Constitution, and reserved for flood control purposes.~~

~~[(2) "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.~~

~~[(3) "Nonstructural flood control" includes such measures as:~~

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

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

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

~~[(4) "Structural flood control" includes such measures as construction of stormwater retention basins, enlargement of stream channels, and modification or reconstruction of bridges.~~

~~[(5) "Floodplain" means land subject to inundation by the 100-year-frequency flood.~~

~~[(6) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, the expense of any condemnation or other legal proceeding, erection, building, acquisition, alteration, remodeling, improvement, or extension of projects, or the inspection or supervision of any of the foregoing items.~~

~~[(7) "Financial assistance" means any loan of flood control funds made to a political subdivision for structural or nonstructural flood control measures through the purchase of bonds or other obligations of the political subdivision.~~

~~[Sec. 17.773.] 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.~~

Sec. 17.773 [17.774]. 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.

Sec. 17.774 [17.775]. 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.

Sec. 17.775 [17.776]. ACTION ON APPLICATION. (a) After an application is received for financial assistance for flood control purposes, the executive administrator [director] shall submit the application to the board together with comments and recommendations of the development fund manager 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, the amount of any such assistance, and in consultation with and pursuant to agreement with the political subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction to be performed.

Sec. 17.776 [17.777]. APPROVAL OF APPLICATION. The board by resolution may approve an application if, after considering the factors listed in Section 17.774 [17.775] 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.

~~[Sec. 17.778. METHOD OF FINANCIAL ASSISTANCE. The board may provide financial assistance by using money in the flood control account to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project.]~~

~~[Sec. 17.779. 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.]~~

~~[Sec. 17.780. INTEREST RATE. Bonds and securities purchased by the board with money derived from the sale of bonds issued under this chapter shall bear interest at the lending rate. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.]~~

~~[Sec. 17.781. 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.]~~

~~[Sec. 17.782. 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.]~~

~~[Sec. 17.783. SECURITY FOR THE BONDS. (a) Bonds purchased by the board shall be supported by taxes levied by the political subdivision for the purpose.]~~

~~(b) The board shall establish conditions and requirements it considers to be consistent with sound investment practices and in the public interest.]~~

~~[Sec. 17.784. DEFAULT. (a) In the event of a default in payment of the principal of or interest on bonds purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.]~~

~~(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.]~~

~~[Sec. 17.785. SALE OF BONDS BY BOARD. (a) The board may sell or dispose of bonds purchased with money in the flood control account. The board may not sell the bonds for less than amortized value and accrued interest.]~~

~~(b) The board shall first offer the bonds at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.]~~

~~(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds or other obligations at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale of such bonds or other obligations so purchased, all in the manner provided for the sale of bonds, except the board may waive any requirement for good-faith checks.]~~

~~[Sec. 17.786. PROCEEDS FROM SALE. The proceeds from the sale of political subdivision bonds held by the board shall be credited to the flood control account, except that accrued interest shall be credited to the interest and sinking fund.]~~

~~[Sec. 17.787. CONSTRUCTION CONTRACT REQUIREMENTS. 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 90 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 10 percent retainage may be made by the political subdivision with approval of the executive director;~~

~~[(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 director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and~~

~~[(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.~~

~~[Sec. 17.788. FILING CONSTRUCTION CONTRACT. The political subdivision shall file with the department 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.~~

~~[Sec. 17.789. INSPECTION OF PROJECTS. (a) The department may inspect the construction of a project at any time to assure that:~~

~~[(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and~~

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

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

~~[Sec. 17.790. ALTERATION OF PLANS. After the executive director approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive director authorizes the alteration in accordance with rules of the board.~~

~~[Sec. 17.791. CERTIFICATE OF APPROVAL. The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:~~

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

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

~~[(3) failure to comply with any term of the contract.]~~

SECTION 2. Section 15.102, Water Code, as amended, is amended to read as follows:

Sec. 15.102. FINANCIAL ASSISTANCE. (a) The loan fund may be used by the board to provide loans of financial assistance to political subdivisions for the construction,

acquisition, improvement, or enlargement of projects involving water conservation, water development, or water quality enhancement, providing nonstructural and structural flood control, drainage, project recreation lands and revenue-generating recreational improvements, or subsidence control within any watershed, or providing recharge, chloride control, or desalinization as provided by legislative appropriations, this chapter, and the board rules.

(b) The loan fund may also be used by the board to provide grants for projects that include supplying water and wastewater services in economically distressed areas, including projects involving retail distribution of those services.

SECTION 3. Subsection (a), Section 15.103, Water Code, as amended, is amended to read as follows:

(a) In an application to the board for ~~[a loan of]~~ financial assistance from the loan fund, 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) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest.

SECTION 4. Section 15.104, Water Code, as amended, is amended to read as follows:

Sec. 15.104. ~~*FINDINGS REGARDING PERMITS [CERTIFICATE OF COMMISSION OR APPROVAL BY COMMISSION].*~~ (a) The board shall not deliver funds pursuant to an application for ~~[a loan of]~~ financial assistance from the loan fund until the *executive administrator makes a written finding [political subdivision has furnished the board a resolution adopted by the commission certifying]:*

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

(b) If an applicant includes a proposal for a waste water treatment plant, the board may not deliver funds for the waste water treatment plant until the applicant has received a permit for construction and operation of the waste water treatment plant and approval of the plans and specifications from the commission.

SECTION 5. Section 15.105, Water Code, as amended, is amended to read as follows:

Sec. 15.105. **CONSIDERATIONS IN PASSING ON APPLICATION.** In passing on an application from a political subdivision for ~~[a loan of]~~ financial assistance from the loan fund, the board shall consider but is not limited to:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;
- (2) the availability of revenue to the political subdivision from all sources for the ultimate repayment of the cost of the project, including all interest;
- (3) the relationship of the project to overall statewide needs; ~~[and]~~
- (4) the ability of the applicant to finance the project without state assistance; *and*
- (5) *for applications for grants for economically distressed areas, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services.*

SECTION 6. Subsection (a), Section 15.107, Water Code, as amended, is amended to read as follows:

(a) The board may make [~~loans of~~] financial assistance available to successful applicants in any manner that it considers economically feasible including:

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

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

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

SECTION 7. Chapter 15, Water Code, as amended, is amended by adding Section 15.116 to read as follows:

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

SECTION 8. Subsection (c), Section 15.211, Water Code, is amended to read as follows:

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

(1) *direct obligations of the United States;*

(2) *other obligations unconditionally guaranteed by the United States;*

(3) *obligations of the State of Texas; and*

(4) *obligations of counties, cities, and other political subdivisions of any state of the United States, except bonds issued by a political subdivision to finance a project or treatment works described in this chapter.*

SECTION 9. Section 16.001, Water Code, as amended, is amended to read as follows:

Sec. 16.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Water Commission.

(3) "Chairman" means the chairman of the Texas Water Development Board.

(4) "Executive director" means the executive director of the Texas Water Commission.

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

(6) "Development fund manager" means the development fund manager of the Texas Water Development Board.

(7) "Political subdivision" means 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).

(8) [~~"Project" or "facility" means any engineering undertaking or work to conserve, develop, store, transport, and treat surface or subsurface 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, and other water storage projects, 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, by the acquisition,~~

by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods. ~~“Project” or “facility” also includes:~~

~~[(A) any device or system used in the storage, treatment, recycling, and reclamation of waste or the recycling and reuse of water, including an intercepting sewer, outfall sewer, pumping, power, and other equipment, and its appurtenances;~~

~~[(B) an extension, remodeling, or alteration of or improvement or addition to an item listed in Paragraph (A) of this subdivision;~~

~~[(C) an element essential to provide a reliable recycled supply of water, such as a standby treatment unit or clear well facility;~~

~~[(D) any work, including a site for a work and the land acquired to be a part of the work or used in connection with the treatment process or used for ultimate disposal of residues resulting from that treatment;~~

~~[(E) any plant, disposal field, lagoon, canal, incinerator area devoted to sanitary landfills, or other facility installed to treat, neutralize, or stabilize waste;~~

~~[(F) a facility to provide for the collection, control, and disposal of waste heat; and~~

~~[(G) public recreational land and revenue-generating recreational improvements for the efficient public enjoyment of projects.~~

~~[(8) “Project” means:~~

~~[(A) any engineering undertaking or work to conserve and develop surface or subsurface 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, and other water storage projects, 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, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods; or~~

~~[(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.~~

~~[(9)] “Bonds” means all Texas Water Development Bonds now or hereafter authorized by the Texas Constitution.~~

~~(9) [(10)] “Waste” has the same meaning as provided in Section 26.001 of this code.~~

~~(10) [(11)] “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 under Article III, Section 49-d-2, of the Texas Constitution.~~

~~(11) [(12)] “Lending rate” means an amount of interest calculated when one-half of one percent is added to the weighted average net effective interest rate on the three most recent issues of bonds issued under this chapter.~~

~~[(13)] “Net effective interest rate” means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.~~

~~[(14)] “State facility” means a project in which the board has acquired an ownership interest.~~

~~(12) [(15)] “Acquisition of a state facility” means the act or series of actions by the board in making payment for a state facility.~~

SECTION 10. Sections 16.131 and 16.136, Water Code, are amended to read as follows:

Sec. 16.131. AUTHORIZED PROJECTS. The board may use the state participation account of the development fund *to encourage optimum regional development of* ~~for~~ projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of:

- (1) *reservoirs and storm water retention basins for water supply, flood protection, and groundwater recharge;*
- (2) *facilities for the transmission and treatment of water; and*
- (3) *treatment works as defined by Section 17.001 of this code* ~~[any existing or proposed project].~~

Sec. 16.136. FACILITIES WANTED BY POLITICAL SUBDIVISION. The board ~~may~~ ~~[shall not]~~ acquire *up to 50 percent of any authorized facility* to the extent that the board finds that the political subdivision:

- (1) is willing and reasonably able to finance *at least 50 percent of the cost* ~~[the acquisition]~~ of the facility;
- (2) has *obtained all* ~~[qualified by obtaining the]~~ necessary permits; ~~[permit; and]~~
- (3) has proposals that are consistent with the objectives of the state water plan; *and*
- (4) *has a program of water conservation for the more efficient use of water as required by Section 15.106 of this code.*

SECTION 11. The provisions of Subchapter H, Chapter 17, Water Code, as adopted by this Act are cumulative of all other law on the subject, but are wholly sufficient authority for the issuance of the revenue bonds that are authorized and the performance of the other acts and procedures authorized by that subchapter, without reference to any other law or any restrictions or limitations contained in any other law, except as specifically provided by this Act. When revenue bonds are issued under Subchapter H, Chapter 17, Water Code, then to the extent of any conflict or inconsistency between any provisions of that subchapter and any provisions of any other law, the provisions of that subchapter prevail and control. The Texas Water Development Board may use the provisions of this Act to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

SECTION 12. This Act takes effect September 1, 1987.

SECTION 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 2, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 21, 1987, by a viva-voce vote.

Passed the House, with amendment, on May 15, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.