

# New Texas Funds For Water And Power Projects: Key Points

By **Monica Hwang, Katie Coleman and Buzz Thompson** (December 11, 2023)

In November, Texas voters approved constitutional amendments implementing two pieces of legislation designed to address concerns about the state's water supply and the reliability of its electric grid.

Proposition 6 established the Texas Water Fund, and Proposition 7 established the Texas Energy Fund. These funds are designed to provide state support for water and generation projects.

The new funds may incentivize private companies to undertake new water and power infrastructure in Texas — and could well serve as a model for similar partnerships elsewhere.

## Proposition 6 and the Texas Water Fund

Proposition 6 calls for \$1 billion to be appropriated to the Texas Water Fund. The fund will be administered by the Texas Water Development Board, which may direct the money to programs including:

- The New Water Supply for Texas Fund;
- The State Water Implementation Fund for Texas, and its supporting State Water Implementation Revenue Fund for Texas;
- The Clean Water State Revolving Fund and the Drinking Water State Revolving Fund;
- The Rural Water Assistance Fund;
- The statewide water public awareness account;
- The Texas Water Development Fund II financial assistance program; and
- The Texas Water Development Fund II state participation account.



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The programs above — and the funds earmarked for them — are intended to develop water projects including desalination, water treatment, aquifer storage and recovery, and transport infrastructure, as well as low-cost financing for water projects in low-income and rural areas. The Texas Water Development Board has already started seeking public input to expedite the implementation of the Texas Water Fund.

Water is a critical public resource that needs help from both the public and private sectors. The New Water Supply for Texas Fund, which will receive \$250 million under Proposition 6, is authorized to support public-private partnerships for water projects.

Private companies often face challenges as they enter the traditionally conservative public

water sector, including geographic fragmentation of water agencies, local politics, and low water rates that often do not cover the full cost of water supplies. Despite these considerations, private companies have become increasingly involved in managing the water supply, and public-private partnerships may play a larger role as governments tackle the diminishing availability of water.

A public-private partnership between the city of Alice, Texas, and Seven Seas Water Group — the first of its kind in Texas — recently broke ground on a reverse osmosis treatment plant to desalinate brackish water from the Gulf Coast Aquifer. The plant expects to provide Alice with about 3 million gallons of water daily.

State lawmakers believe the Alice-Seven Seas partnership can serve as a blueprint for other Texas cities looking for new sources of water, as a surging population, climate change and aging infrastructure have caused global concerns about the future availability of fresh water.

According to the 2022 Texas State Water Plan, it will cost \$80 billion to meet projected supply demands in the state through 2070. Texas legislators' recognition of the need to stabilize the state's water supply fueled the effort behind the Texas Water Fund, which will be financed by an existing government surplus.

And, as great as its demands are, Texas reflects only a fraction of the anticipated water infrastructure shortfall in the U.S., which exceeds \$1 trillion. Experts across the country advocate for not only developing additional public funding sources, but also creating public-private partnerships to leverage available public dollars with private capital. The Texas Water Fund may prove to be a template for such partnerships around the nation.

### **Proposition 7 and the Texas Energy Fund**

Since Winter Storm Uri hit Texas in February 2021, policymakers have focused on grid reliability. They have expressed concern that intermittent generation sources, such as wind and solar, are effectively crowding out new investment in dispatchable generation.

As investments in renewable energy continue, more investments in dispatchable generation are needed as well. Texas legislators have been concerned about the state's energy demand during times of lower renewable output.

So the Legislature devised the Texas Energy Fund to provide low-cost financing and grants for investment in new dispatchable facilities, and to support upgrades to utility-owned facilities outside the jurisdiction of the Electric Reliability Council of Texas, or ERCOT.

Unlike other proposals that would have increased consumers' electric bills to subsidize existing and new dispatchable generation, the Texas Energy Fund will elicit new investment using existing state funds, which will avoid raising consumers' electricity costs.

Proposition 7 implements the Texas Energy Fund, which comprises three components:

- Up to \$7.2 billion for low-interest loans and completion grants for new dispatchable generation projects within the jurisdiction of ERCOT;
- Up to \$1 billion for grants to modernize, weatherize and enhance transmission and distribution infrastructure and electric generation facilities outside the jurisdiction of ERCOT; and

- Up to \$1.8 billion for Texas backup power packages, which are generators and microgrids that can supply power to key facilities during emergencies.

This is all new for Texas. The Public Utility Commission will be responsible for implementing a process to award the funds, something it has never done before.

In October, at the 2023 University of Texas Gas and Power Institute in Houston — a one-day program on timely topics relevant to the gas and power industry — Public Utility Commission member Jimmy Glotfelty noted that the agency will need to acquire or contract for additional expertise to administer the fund. The commission plans to outsource some of the responsibility to a third-party contractor it will engage in the next couple of months.

A number of questions still need to be answered before funding can begin. The commission will need to adopt rules to define which projects are eligible, and how awards will be prioritized.

The commission has previously taken comments from the public on these issues, and plans to take formal comment on a proposed rule over the next month. The proposal for publication and comments will be available in PUC Project No. 55862.

The commission will begin accepting loan applications for facilities to be developed in ERCOT on June 1, 2024, and it must make initial disbursements by Dec. 31, 2025. To be eligible, a project must add at least 100 megawatts to the ERCOT grid, and cannot be a battery storage facility or a facility that is primarily dedicated to an industrial user.

The loans will have a 20-year term at a 3% interest rate — which is appealing compared with prevailing market offers — and are to be repaid ratably beginning in the third year of a facility's operation. New dispatchable generation in service before June 1, 2029, may also receive a completion bonus. The program is set to expire on Sept. 1, 2050.

There is heightened interest in the energy sector in Texas, as well as elsewhere in the country. In November, TotalEnergies SE announced an agreement to acquire three combined-cycle gas power plants with a total of 1.5 gigawatts of capacity in Texas. These plants will support its renewable energy assets, so the company can offer firm power supply contracts to customers.

But developing greenfield dispatchable generation has been challenging. Developers are struggling to compete with renewables on a cost-per-kilowatt basis. Low-cost loans from the Texas Energy Fund may offer at least some relief for developers.

It remains unclear to what extent onsite dispatchable generation for an industrial facility can qualify for funding. While S.B. 2627 excludes generation that is primarily to serve an industrial user, it could still allow funding for sites where generation is oversized relative to the load. Because of the existing economies of onsite generation for industrial users, this could be another significant source of development.

## **Key Takeaways**

Governments at all levels and in all locations face the need for additional infrastructure. In passing these amendments, Texas has adopted innovative approaches and expanded opportunities for private companies to support such additional infrastructure — both in the traditionally public water sector, and in the power sector where dispatchable generation

projects are needed to bolster grid reliability.

Both public and private players would be well advised to see how these funds are implemented, and whether similar mechanisms may be adopted elsewhere to address concerns about water security and the appropriate balance of renewable energy versus traditional energy sources.

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