

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB3 by Armbrister (Relating to the development and management of the water resources of the state, including the creation of a groundwater conservation district; imposing fees and providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Introduced: a positive impact of \$82,380,044 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$43,019,037
2007	\$39,361,007
2008	\$39,361,007
2009	\$39,361,007
2010	\$39,361,007

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Water Infrastructure Fund No. 302</i>	Probable Savings/ (Cost) from <i>Water Infrastructure Fund No. 302</i>	Probable Savings from <i>GENERAL REVENUE FUND 1</i>	Change in Number of State Employees from FY 2005
2006	\$119,618,000	(\$119,618,000)	\$43,019,037	62.2
2007	\$132,867,000	(\$132,867,000)	\$39,361,007	81.0
2008	\$135,359,000	(\$135,359,000)	\$39,361,007	80.2
2009	\$137,950,000	(\$137,950,000)	\$39,361,007	79.0
2010	\$140,525,000	(\$140,525,000)	\$39,361,007	75.7

Fiscal Analysis

Article 1--Environmental Flows

The bill would provide that existing water rights could be converted temporarily or permanently to use for environmental flow protection. The bill would replace the Study Commission on Water for Environmental Flows to the Texas Environmental Flows Commission (TEFC). The TCEQ would continue to provide staff support to the modified TEFC. The TEFC would develop flow regime recommendations based on a priority schedule by river basin. The bill would create the Texas Environmental Flows Science Advisory Committee (TEFSAC) and the Basin and Bay Area Stakeholders Committee (BBASC). The TCEQ, the Texas Water Development Board (TWDB), and

the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the TEFC, TEFSAC, and the BBASC, providing reports regarding the groups' recommendations, and providing technical assistance. In addition, the bill would create watermaster advisory committees and provide for assessments to be deposited to the credit of the Watermaster Administration Account No. 158

Article 2--Conjunctive Management Water Policy

The bill would add restrictions to the use of high-capacity water wells that interfere with another person's use of a water well for domestic or agricultural purposes. The TCEQ would be charged with enforcing these restrictions. The bill would provide for the TWDB to enter into contracts with political subdivisions designated as representatives of groundwater management area councils to pay for all or part of groundwater management area planning costs. The bill also would require the TWDB to provide one or more employees to assist each groundwater management council.

The bill would require the TWDB to develop and implement a statewide water conservation awareness program to educate about water conservation. The bill also would require the TWDB to review water conservation plans and annual reports submitted by water utilities.

The bill would create a licensing program for the sale or lease of water rights in excess of 100 acre-feet per year. The Water Development Board would be authorized to collect a fee to recover associated costs, and the TCEQ would be responsible for violations. In addition, the bill would allow the TCEQ to issue permits and amendments for the injection and recovery for the beneficial use of waste or pollutants into aquifers.

The bill would make groundwater management area councils responsible for approving groundwater management plans, instead of the TWDB as under current law. The bill also makes several requirements for groundwater management area councils, and it would require the TCEQ and the TWDB to provide technical assistance to the councils. The TWDB would also be responsible for reviewing the councils' plans and documents produced by the councils.

Persons would be authorized to petition the TCEQ to appoint dispute resolution panels for disputes relating to groundwater conservation districts. The bill would create a statewide groundwater conservation district for all state-owned land not within the boundaries of a confirmed groundwater conservation district on August 31, 2007. The commissioners of the TCEQ would serve as the board of directors of the statewide district.

Article 3--Financing of Water Projects

The bill would create a water conservation and development fee equal to \$0.13 for each 1,000 gallons of water used by ultimate consumers each month, with the first 5,000 gallons of consumption exempted from the fee. The fee would be collected by retail public utilities, remitted to the Comptroller, and deposited to the credit of the Water Infrastructure Fund (WIF) No. 302. The bill would move the WIF from inside the state treasury to outside the state treasury.

The bill would provide that money in the WIF could be transferred to the State Participation Account, the Economically Distressed Areas Program Account, the Agricultural Water Conservation Fund No. 358, the Water Assistance Fund No. 480, and to the General Revenue Fund in amounts not to exceed appropriations of General Revenue for operations of the TWDB and the TCEQ related to the administration of programs relating to water resources and water quality.

The bill would provide that the Economically Distressed Areas Account could be used for water projects in certain areas. Funding from the existing Economically Distressed Areas Program could not be used for the newly created program.

Article 4--Special District Creation

The bill would create the Houston County Groundwater Conservation District.

Article 5--Edwards Aquifer Authority

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management.

Methodology

Article 1--Environmental Flows

To provide technical support to the committees established in Article 1 of the bill, complete hydrological modeling, geographic information systems applications related to instream flows, and to evaluate economic factors, 6.0 additional FTEs and related costs are expected to be needed by the TCEQ. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees established in Article 1, as well as funding for costs incurred by the TEFSAC. The agency expects that the number of FTEs needed would increase from 2.0 in fiscal year 2006 to 8.0 FTEs in fiscal year 2008.

No significant fiscal implications to the watermaster programs at TCEQ are expected as a result of the bill's passage. No significant fiscal implications to the TPWD are anticipated to result from the bill's provisions relating to the agency's coordination with newly created councils and committees.

Article 2--Conjunctive Management Water Policy

The TCEQ anticipates that it would need a total of 12.0 FTEs to implement the requirements of Article 2 of the bill relating to enforcement of the well interference provisions, assisting the 16 groundwater management area councils regarding groundwater availability, and performance of dispute resolution on groundwater management issues. In addition, 2.0 FTEs and \$150,000 per year in contract services would be needed to support the newly created Statewide Groundwater Conservation District, including new permitting procedures, data collection, modeling, public education, outreach and planning.

The TWDB anticipates that it will cost \$1,160,000 per fiscal year for studies conducted by groundwater management area councils and related administrative costs. Because of the bill's requirement that TWDB provide each groundwater management district area with technical assistance, this estimate assumes that the TWDB would provide at least one geologist per area, for a total of 16.0 FTEs and related costs. In addition, one manager and administrative assistant would be added at the agency's headquarters for a total of 18.0 additional FTEs.

For the public awareness program, it is estimated that 2.0 FTEs would be required by the Water Development Board to provide oversight and administration of the program at a cost of approximately \$135,000 per fiscal year, while contractor services ranging from \$9.9 million in fiscal year 2006 to \$5.8 million in fiscal year 2010 are included for the purchase of media advertising and the development of materials. This estimate assumes that the public awareness program would be similar in scale to the "Don't Mess with Texas" program operated by the Texas Department of Transportation. The review of water conservation plans and annual reports for an estimated 800 water supply systems is expected to result in the TWDB needing 1.0 additional FTE and related costs.

Costs to the TWDB associated with the water rights sales licensing are expected to be minimal and would be recovered through fees authorized by the bill.

Article 3--Financing of Water Projects

Revenue to the WIF is based on estimates by the Comptroller of Public Accounts.

General Revenue savings are based on the assumption that all General Revenue currently appropriated to both the TCEQ and TWDB, including debt service, would be replaced with WIF funding, since it is

assumed that all such costs are for water resources and water quality purposes, as provided in proposed Water Code, Section 15.974 (a) (6). The amounts are based on those included in the Committee Substitute for Senate Bill 1, 79th Legislature. The amount included for General Revenue replacement at the TCEQ totals \$5.8 million in fiscal year 2006 and \$4.7 million in fiscal year 2007. The amount for the TWDB totals \$37.6 million in fiscal year 2006 and \$35.1 million for fiscal year 2007 and includes General Revenue for both the agency bill pattern and the Debt Service Payments--Non-Self-Supporting G.O. Water Bonds bill pattern. Additional General Revenue-related savings could be achieved by replacing General Revenue appropriated to the Soil and Water Conservation Board and General Revenue-Dedicated funds appropriated to the TCEQ for water-related programs.

This estimate assumes that funds in the WIF would first be used to cover current appropriations to the TCEQ and TWDB. Next, operating costs to the TCEQ and TWDB created by the requirements of the bill would be covered with WIF proceeds. Any remaining available funding would be used for the programs authorized in Article 3 of the bill, including the following: debt service for the new Economically Distressed Areas program created by the bill in proposed Water Code, Subchapter K-1; debt service for State Participation bonds; additional grants to disadvantaged and small communities; debt service for Agricultural Water Conservation Bonds; and Facility Planning Grants. The total amount available each year for the programs in the aggregate would be \$60.6 million in 2006; \$81.1 million in 2007; \$85.9 million in 2008; \$89.2 million in 2009; and \$92.9 million in 2010. The amount used for each program would depend on the amount of bonds issued and priorities of the TWDB. Based on these levels of funds available for debt service and financial assistance, the TWDB is expected to require the following number of FTEs, along with related costs, to support the creation or expansion of these programs: fiscal year 2006--19.2 additional FTEs; fiscal year 2007--35.0 additional FTEs; fiscal year 2008--31.2 additional FTEs; fiscal year 2009--30.0 additional FTEs; fiscal year 2010--26.7 additional FTEs.

Article 4--Special District Creation

No significant fiscal implications to the state are expected from the bill's creation of the Houston County Groundwater Conservation District.

Article 5--Edwards Aquifer Authority

No significant fiscal implications to the state are expected as a result of changes to law regarding the Edwards Aquifer Authority.

Total Administrative/Operating/FTEs by Agency

Total administrative costs to the TCEQ in implementing the bill would be \$1.8 million in fiscal year 2006 and \$1.5 million per fiscal year in subsequent years. The agency would require 20 additional FTEs.

Operating costs to the TWDB would be as follows:

Fiscal year 2006: operating costs--\$12.9 million; FTEs--42.2

Fiscal year 2007: operating costs--\$9.8 million; FTEs--61.0

Fiscal year 2008: operating costs--\$7.5 million; FTEs--60.2

Fiscal year 2009: operating costs--\$6.7 million; FTEs--59.0

Fiscal year 2010: operating costs--\$5.6 million; FTEs--55.7

Local Government Impact

Local governments operating retail public utilities could incur costs associated with collecting the water conservation and development fee. However, since the bill would provide for utilities to retain 0.5 percent of collections, it is expected that new revenues would offset any costs.

Councils and committee created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Local governments would be the recipients of financial assistance available from the newly generated revenues to the WIF and associated leveraged bond funding, ranging from an estimated \$62.6 million in fiscal year 2006 to \$92.9 million in fiscal year 2010.

Because Article 4 of the bill regarding the creation of the Houston County Groundwater Conservation District would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Since Article 5 of the bill raises overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

Source Agencies: 304 Comptroller of Public Accounts, 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, WK, ZS, TL