

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 27, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
 Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: SB3 by Averitt (Relating to the development, management, and preservation of the water resources of the state; providing penalties.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, Conference Committee Report: a negative impact of (\$4,422,209) through the biennium ending August 31, 2009.

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
2008	(\$2,181,860)
2009	(\$2,240,349)
2010	(\$2,282,218)
2011	(\$2,206,118)
2012	(\$1,956,318)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/(Cost) from <i>GAME, FISH, WATER SAFETY AC 9</i>	Change in Number of State Employees from FY 2005
2008	(\$2,181,860)	(\$224,739)	16.1
2009	(\$2,240,349)	(\$219,054)	17.1
2010	(\$2,282,218)	(\$219,978)	18.3
2011	(\$2,206,118)	(\$219,978)	18.3
2012	(\$1,956,318)	(\$220,902)	18.3

Fiscal Analysis

Article 1 - Environmental Flows

The bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science

Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the SAC and the BBEST for meeting expenses. It would also allow the TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by political subdivisions designated as representatives of the stakeholder committees.

Article 2 - Water Conservation and Planning

Water Conservation Awareness Program and Conservation Plans

The bill would require the TWDB to develop and implement a statewide water conservation awareness program to educate residents of the state about water conservation. The bill also would require the TWDB to review water conservation plans and annual reports submitted by water utilities. It would also authorize expedited amendment processes for regional water plans, and it directs the TWDB to perform compliance reviews of certain water conservation plans and annual reports.

Climate Change Study

The bill directs the TWDB in coordination with the Far West Texas Regional Water Planning Group to conduct a study on the impacts of climate change on surface water supplies from the Rio Grande and to submit a report to the Legislature no later than December 31, 2008 on these impacts. As part of this study, the TWDB is to convene a conference within the Far West Texas regional water planning area to review current analyses regarding the impact of climate change on surface water supplies in other states and to make recommendations for the incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan.

Water Conservation Advisory Council

The bill establishes a new Water Conservation Advisory Council (Council) composed of 23 members appointed by the TWDB to represent the following: state agencies; federal agencies; municipalities; groundwater conservation districts; river authorities; environmental groups; irrigation districts; industries; institutional water users; professional organizations focused on water conservation; higher education; agricultural groups; and representatives from certain interest groups.

The Council shall provide expertise in water conservation including: monitoring trends and new technologies in water conservation implementation; developing and implementing a state water management resource library; and monitoring the implementation of water conservation strategies by water users included in regional water plans. The Council would be required to submit a report to the Legislature and the Governor in even-numbered years on progress made in state water conservation. The Council would also be required to conduct a study by December 1, 2008 to evaluate the desirability of requiring the TWDB to designate certified water conservation training entities and programs; this study would also be submitted to the Legislature and Governor. The TWDB would be responsible for assisting the Council in performance of these duties. The members would serve without compensation, but would be eligible for reimbursement of Council related expenses.

Article 4 - Unique Reservoir Sites and Sites of Unique Ecological Value

Unique Reservoir Designation

The bill amends Section 16.051 of the Water Code to specify that a site is considered to be a site having unique value for the construction of a reservoir if that site is recommended for designation in the 2007 State Water plan adopted by the TWDB. In so doing, no state agency or political subdivision of the state may obtain a fee title or an easement that would significantly prevent the construction of a reservoir on any of the designated sites.

Region C Study Commission

The bill would create the Study Commission on Region C Water Supply and would require the TWDB to provide staff support and funding for professional services and for the reimbursement of commission-related duties. The bill specifies that the Study Commission will review water supply alternatives available to Region C including existing and proposed reservoirs and groundwater supplies.

Article 5 - Legislative Joint Interim Committee

The bill creates a joint interim oversight committee, co-chaired by the Chairmen of the Senate and House Committees on Natural Resources, to review financing of water infrastructure projects and funding for water programs administered by state agencies. The remaining membership of the joint oversight committee will consist of three appointees of the Lieutenant Governor and three appointees of the Speaker of the House.

Article 12 - Edwards Aquifer Authority

The bill would make changes in requirements for the administration and operation of the Edwards Aquifer Authority (authority), including changing the calculation used for determining withdrawal limits from the Edwards Aquifer. The bill would change requirements related to the number of acre-feet of groundwater rights to be retired. A steering committee and a science subcommittee would be created by the authority with assistance from Texas A&M University to develop various program documents, reports, and recommendations. The bill identifies various state agencies required to participate. The authority and other stakeholders and state agencies listed would be required to provide money as necessary to finance the activities of the steering committee and subcommittees.

Methodology

Article 1--Environmental Flows

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 per fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the GR-Dedicated Water Resource Management Account No. 153 would not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.3 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the Water Assistance Fund No. 480 would not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

This fiscal note assumes that existing studies and information will be used by SAC and the BBEST. Funds are not included to do additional studies through grant funds.

Article 2 - Water Conservation and Planning

No significant fiscal implications are expected to the TCEQ as a result of provisions in Article 2 of the bill. It is anticipated that any costs associated with the regulation of irrigation systems can be absorbed

by the TCEQ.

Water Conservation Awareness Program and Conservation Plans

The TWDB estimates that they will need 2.0 FTEs for the public awareness program to provide oversight and administration of the program at a cost of approximately \$270,000 for the 2008-09 biennium. The agency anticipates needing two FTEs for this function in subsequent fiscal years as well. This cost would be paid out of the General Revenue Fund. Providing a public awareness campaign on the scale of the Texas Department of Transportation's "Don't Mess with Texas" campaign, could cost as much as \$9 million for the biennium. However, these costs are not included in this estimate. Instead it is assumed that the TWDB would use existing resources to begin developing a statewide water conservation public awareness campaign.

The TWDB anticipates needing 1 additional FTE and related costs to review the water conservation plans and annual reports of retail water supply systems, as required in Article 2, for a total of approximately \$125,000 for the 2008-09 biennium. The agency anticipates needing one FTE for this function in subsequent fiscal years as well. This cost would be paid out of the General Revenue Fund.

Climate Change Study

According to TWDB, the cost to perform the Rio Grande River climate change impact study would be approximately \$25,000 and the cost to convene the associated conference would be \$5,000 in fiscal year 2008. It is anticipated that these costs can be absorbed within existing agency resources.

Water Conservation Advisory Council

The TWDB anticipates needing 1 additional FTE (Program Specialist II) and associated expenses in each fiscal year to provide operational assistance to the Water Conservation Advisory Council for a total of approximately \$61,000 a fiscal year. In order to conduct studies and provide data requested by the Council, one FTE (Research Specialist I) and associated operating expenses would be required each fiscal year, for a total of \$49,000 a fiscal year. The agency also estimates an additional other operating expense of \$5,000 a fiscal year in fiscal year 2009 and fiscal year 2011 related to development and publication of the report on water conservation in the state. The agency anticipates the cost to reimburse the members of the Council for Council-related duties to be \$20,300 a fiscal year.

In this cost estimate it is assumed that TWDB staff would be able to provide any necessary studies requested by the Council. If these studies were not able to be done with existing staff resources, the TWDB estimates that it could cost as much as \$100,000 a fiscal year to contract out to do such studies. These costs, however, are not included in this estimate.

Article 4 - Unique Reservoir Sites and Sites of Unique Ecological Value

Unique Reservoir Designation

Regarding the unique reservoir sites, expenses would occur only if a dam or reservoir were to be built at any of the designated sites; otherwise, no fiscal implications are anticipated.

Region C Study Commission

The TWDB does not anticipate needing additional FTEs to carry out the provisions associated with the Study Commission on Region C Water Supply, there will be a cost, however, of \$600,000 for the 2008-09 biennium for the agency to contract with outside entities to carry out the studies required by the bill. It is anticipated that the all additional costs associated with the new Commission including the reimbursement of commission members and the production of the required report can be absorbed within existing agency resources.

Article 5 - Legislative Joint Interim Committee

No significant fiscal implications to the state are expected from the creation of this legislative joint interim committee.

Article 12 - Edwards Aquifer Authority

No significant fiscal impact is anticipated for either the TCEQ or the TWDB regarding the provisions in the bill dealing with Edwards Aquifer Authority. Both agencies anticipate being able to absorb any associated costs within existing agency resources.

Local Government Impact

Councils and committees 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.

Article 2 - Water Conservation and Planning

The bill could reduce or eliminate a local government's ability to divert water under a water right issued after September 1, 2007 for municipal use on a case by case basis. The fiscal impacts to a local government would depend on the cost of obtaining water supply from another source.

The bill would require each political subdivision to pay the property owner an encumbrance payment not less than 2.5 times the ad valorem taxes imposed in the tax year that precedes the year in which the payment is made on the property for which the payment is made. The amount of local fiscal impact associated with these provisions cannot be determined.

The bill could further the reduction of water demands on public water suppliers and the wastewater load on wastewater treatment plants, thus reducing or deferring capital infrastructure costs to local governments providing water and wastewater services.

Article 4 - Unique Reservoir Sites and Sites of Unique Ecological Value

The bill would prevent local governments from obtaining a fee title or an easement that would significantly prevent the construction of a reservoir or adversely affect a unique river or stream segment designated by the bill. Potential impacts cannot be determined or quantified at this time, however.

Article 12 - Edwards Aquifer Authority

Sections of the bill that would affect the Edwards Aquifer Authority (EAA or authority) would have varying fiscal impact to the authority and to the counties and municipalities within its boundaries. The Edwards Aquifer Authority reports that provisions of the bill related to determining withdrawal limits requirements related to the number of acre-feet of groundwater rights to be retired would provide a significant total savings to the authority of \$48.5 million per fiscal year for the first five years following implementation. The authority reports that changing the calculation for the limit on total withdrawals will prevent the authority from having to buy down 99,000 acre-feet of groundwater rights; as a result, the associated expense would be borne entirely by Edwards Aquifer groundwater permit holders. In addition, the proposed elimination of retiring groundwater rights would result in a savings to the authority and to the downstream water users in equal amounts. Those counties and municipalities that rely on the Edwards Aquifer would experience costs and savings proportionately as identified by the authority.

The fiscal impact to stakeholders in the Edwards Aquifer as a result of changing pumping deadlines and withdrawal calculations is not expected to be significant. The fiscal impact to local governments within the boundaries of the Edwards Aquifer Authority may experience additional costs related to implementing a water management program; however, not knowing what that program will entail, an estimate is not possible at this time; however, the fiscal implication to units of local government is not anticipated to be significant.

Participation in the steering committee and the science subcommittee is not anticipated to have a significant fiscal impact. In addition, because expenses related to the committees' activities would be shared among so many stakeholders, it is anticipated that those costs would also be minimal.

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

LBB Staff: JOB, JF, DB, SD, WK, ZS, TL