

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**May 31, 2009**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB3526** by Callegari (Relating to the management of the water resources of the state by the Texas Water Development Board, Texas Commission on Environmental Quality, and related entities; providing penalties.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3526, Conference Committee Report: a negative impact of (\$1,000,000) through the biennium ending August 31, 2011.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2010	(\$500,000)
2011	(\$500,000)
2012	(\$1,266,667)
2013	(\$1,339,700)
2014	(\$1,338,025)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2010	(\$500,000)
2011	(\$500,000)
2012	(\$1,266,667)
2013	(\$1,339,700)
2014	(\$1,338,025)

**Fiscal Analysis**

The bill would amend the Water Code to require the Water Development Board (TWDB) to adopt rules specifying the manner in which any capitalization grant under the State Water Pollution Control Revolving Fund, the Safe Drinking Water Revolving Fund, or any additional state revolving fund, may be used to provide financial assistance to an eligible applicant. The bill would also authorize TWDB to expeditiously adopt rules to comply with the terms of a special capitalization grant or other source of federal funding.

The bill would authorize TWDB to not approve an application recommended through the state and

regional water planning process for funding from the Water Infrastructure Fund, the Disadvantaged Rural Community and Wastewater Financial Assistance Fund, and the State Participation Account if an applicant has failed to complete a request for information relevant to the project, including a water infrastructure financing survey.

The bill would rename the Texas Environmental Flows Science Advisory Committee the Texas Environmental Flows Science Committee and the Science Advisory Committee the Science Committee and require TWDB to appoint members of these committees and the Basin and Bay Area Stakeholders Committee.

The bill would require the State Water Plan and the Regional Water Plans to consider the effects of climate variability. This section of the bill would apply to the State Water Plan which must be completed by 2012 and to Regional Water Plans which must be completed by 2016.

The bill would create an advisory committee to assist TWDB in incorporating the potential effects of climate variability into the 2012 State Water Plan. The committee would assess past and predicted variations in climate; assess the potential effects of climate variability; review case studies of major water providers that include quantitative sensitivity analyses for water demand and supply under a range of climate variation scenarios; review and analyze information regarding natural climate variability; assess existing global climate models; make recommendations for improving the collection of general information; and make recommendations for the use of innovative water technologies. The bill would require the advisory committee to submit its findings and recommendations not later than December 1 of each even-numbered year.

The bill would make the acquisition of water rights or existing public water systems to encourage optimum regional development of desalination projects an allowable use of the State Participation Account. The bill would also require TWDB to consider when acquiring a facility, or interest in a facility, whether the facility would encourage optimum regional development of a desalination project.

The bill would amend the Water Code to remove the requirement that the total amount of financial assistance provided by TWDB for the Economically Distressed Areas Program (EDAP) from state-issued bonds, for which repayment is not required, may not exceed 90 percent of the total principal amount of issued and unissued bonds authorized for this program, plus outstanding interest on those bonds.

The bill would allow the Texas Commission on Environmental Quality (TCEQ) to assess Dam Safety administrative penalties up to \$10,000 per day. The bill also would allow the agency to regulate the operations of the dams in the state.

The bill would make changes to the rate hearing process TCEQ administers for water and sewer utilities and provisions relating to interim rates. The bill would also provide TCEQ with the authority to allow a municipality or utility or water supply corporation to render sewer service without a certificate of public convenience and necessity provided the municipality provides specific notice of its intent to provide sewer service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certified area of another retail utility.

The bill would extend the grace period for renewing expired occupational licenses and registrations from 30 to 60 days and repeal the current limit on renewal fees for expired licenses. The bill would also allow the Executive Director of TCEQ to dissolve any water district that is inactive for a period of five consecutive years and has no outstanding bonded indebtedness or that has performed none of the functions for which it was created.

The section of the bill relating to the appointment of the advisory committees would take effect September 1, 2009; all other parts of the bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house; otherwise it would take effect September 1, 2009.

The bill would require new state buildings with roof areas of 10,000 square feet or more in areas of the state that receive at least 28 inches of rain per year to incorporate rainwater harvesting systems in their design, or provide evidence that existing buildings can provide equivalent amounts of rainwater, and it

would require that at least 25 percent of the building's roof be used for rainwater collection. The bill would also encourage municipalities and counties to provide incentives to promote rainwater harvesting. The bill would require the Texas Water Development Board (TWDB) to ensure that training on rainwater harvesting is available for permitting staff of municipalities and counties at least quarterly. In areas located wholly or partly in a priority groundwater management area and those counties and municipalities with populations of 100,000 or more, the bill would require staff to receive the training at least once every five years. The bill would allow for the training to be provided via videotape or other media. The bill would also require the TWDB to provide to the lieutenant governor, and speaker of the house, by December 1, 2010, a report describing rainwater harvesting demonstration projects for which TWDB has provided grants for rainwater harvesting, if the agency would receive an appropriation from the Legislature for such projects. The bill would require a retail public utility to perform a water loss audit annually and file it with TWDB if the utility is receiving any financial assistance from TWDB.

The bill would require that notice for an application to the Texas Commission on Environmental Quality (TCEQ) to obtain or amend a certificate of convenience (CCN) and necessity to provide water or sewer service given to each county and groundwater conservation district that is wholly or partially included in the proposed area. The bill would take effect on September 1, 2009 and apply only to an application for a CCN or an amendment to a CCN filed on or after the effective date of the bill.

The bill would take effect September 1, 2009.

## **Methodology**

TWDB has been authorized to issue \$500 million in GO bonds for EDAP. The bill would authorize TWDB to issue the full amount as grants, whereas current statute requires a maximum of 90 percent of bond proceeds to provide grants. Therefore, this bill would give TWDB the statutory authority to issue an additional \$50 million in GO bonds for grants under EDAP, in lieu of self supporting loans. TWDB reports that \$34 million has already been provided as loans for EDAP projects, but the remaining \$16 million could be provided as grants.

TWDB reports that the additional \$16 million in grants for EDAP projects would be awarded in fiscal year 2012. As a result, TWDB would have the following debt service requirements for this \$16 million in GO bonds: \$0 in fiscal years 2010 and 2011; \$1,266,667 in fiscal year 2012; \$1,339,700 in fiscal year 2013; and \$1,338,025 in fiscal year 2014. Since the awards would be grants instead of loans, this debt service would require General Revenue funds, whereas the debt service for the loans under the current statute would have been paid by loan repayments.

Based on the LBB's analysis of TWDB and TCEQ, all duties and responsibilities associated with implementing the provisions of the bill, not related to the issuance of GO bonds for EDAP grants, could be accomplished by utilizing existing resources. Further, this analysis assumes that any revenues resulting from changes relating to administrative penalties would not be significant.

It is estimated that any administrative costs associated with implementing the rainwater harvesting provisions of the bill could be absorbed using existing state agency resources. Regarding the requirement that state buildings with roof areas exceeding 10,000 square feet or more to employ rainwater harvesting over at least 25 percent of the roof area, the cost would depend upon the size of a building and each building's unique design features. The General Land Office and Veterans' Land Board reports that the bill would result in increased construction costs of \$135,000 for an average new Veterans' Home with a roof area of 80,000 square feet. Because the total cost of such a building is reportedly \$12.5 million and because of cost volatility in construction costs, and because a portion of the additional costs could be recouped through lower water bills, this estimate assumes that the additional cost would not be significant to total cost of a new state building.

Regarding the rainwater harvesting demonstration matching grants program referenced in the bill, this estimate assumes that the Legislature would appropriate \$500,000 in each fiscal year out of the General Revenue Fund for the 2010-11 biennium. Based on information received by the TWDB, this could support two demonstration projects per year ranging in size from 30,000 to 175,000 gallons of storage. If the Legislature would not provide an appropriation for this purpose, then the bill would not

result in significant fiscal impact to the state.

The bill would encourage municipalities and counties to provide rebate incentives or discounts for rain barrels or water storage tanks to promote rainwater harvesting at residential, commercial, and industrial facilities. Members of a local permitting staff in an area designated by the Texas Commission on Environmental Quality with a population of more than 100,000 would be required to attend a training seminar provided by TWDB at least once every five years. However, since the training would likely be available via videotape, the fiscal impact to local entities to implement these provisions of the bill is not anticipated to be significant.

The bill's provisions relating to CCNs are not expected to result in significant fiscal implications.

### **Local Government Impact**

The bill would encourage municipalities and counties to provide rebate incentives or discounts for rain barrels or water storage tanks to promote rainwater harvesting at residential, commercial, and industrial facilities. Members of a local permitting staff in an area designated by the Texas Commission on Environmental Quality with a population of more than 100,000 would be required to attend a training seminar provided by TWDB at least once every five years. However, since the training would likely be available via videotape, the fiscal impact to local entities to implement these provisions of the bill is not anticipated to be significant.

Some local governments could be awarded grants from the TWDB, if the demonstration matching grants receive funding by the Legislature.

The bill would require each retail public utility providing potable water to perform a system water loss audit every five years, except during the term of any loan or grant agreement with TWDB, the utility must perform the audit annually. According to TWDB, the costs to a retail public utility for staff time to complete an annual water loss audit range from less than \$1,000 to \$20,000 depending on the size of the utility and their records system. Some local governments could be awarded grants from the TWDB, if the demonstration matching grants receive funding by the Legislature.

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**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, SD, TL, ZS, AH, SZ