

BILL ANALYSIS

C.S.H.B. 3273
By: Ritter
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to certain projections, the next several decades will see a substantial decrease in water supplies in Texas along with a sharp increase in demand. The state water plan has identified projects that will help avoid catastrophic conditions in times of drought around the state, but the increasing costs for local water providers, the capital-intensive investment required to implement large-scale water supply projects, and the financial constraints on some communities necessitate a dedicated source of funding to assist in developing those projects.

C.S.H.B. 3273 proposes to address this problem by amending current laws to assist the Texas Water Development Board in funding certain projects identified in the state water plan.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTIONS 2 and 7 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board in SECTIONS 3 and 9 of this bill.

ANALYSIS

SECTION 1. Establishes that the legislature recognizes the importance of providing for the state's future water supply needs and that the purpose of the bill's provisions is to ensure that funding is available to provide an adequate water supply for the future of this state.

SECTION 2. Amends Chapter 13, Water Code, by adding Subchapter O to read as follows:

SUBCHAPTER O. STATE WATER IMPLEMENTATION FEE

Sec. 13.551. STATE WATER IMPLEMENTATION FEE. Requires each retail public utility to collect from each ultimate consumer to whom the utility provides retail water utility service a public water supply service connection fee.

Sec. 13.552. RATE OF FEE. Requires the comptroller of public accounts by rule to establish the rate of the fee imposed for each service connection used by the ultimate consumer for potable water consumption and prohibits that rate from exceeding the rate limit prescribed by the Texas Constitution.

Sec. 13.553. EXEMPTIONS. Exempts from the application of the fee, a consumer who is a government or institutional user, as defined by comptroller rule.

Sec. 13.554. PAYMENT OF FEE. Requires each retail public utility that sold potable water to an ultimate consumer for consumption to send to the comptroller, on or before the 20th day of the month following the end of each calendar month, the amount of the fee the utility collected for the preceding calendar month. Entitles a retail public utility that makes timely payment of the fee to retain one percent of the fee for each consumer service connection on its system as reimbursement for the costs of collecting the fee.

Sec. 13.555. REPORTS. Requires each retail public utility that sold potable water to an ultimate consumer for consumption to file with the comptroller, on or before the 20th day of the month following the end of each calendar month, a report stating the number of consumer service connections used by ultimate consumers during the preceding calendar month, the number of consumer service connections used by ultimate consumers during the preceding calendar month on which the fee was imposed, and any other information required by the comptroller.

Sec. 13.556. RECORDS. Requires a retail public utility that sells potable water to an ultimate consumer for consumption to keep a complete record of the number of consumer service connections used by ultimate consumers during the preceding calendar month; the number of consumer service connections used by ultimate consumers during the preceding calendar month on which the fee was imposed; and any other information required by the comptroller.

Sec. 13.557. ALLOCATION OF REVENUE. Requires the revenue from the state water implementation fee to be deposited to the credit of the state water implementation fund for Texas.

Sec. 13.558. NOTICE OF FEE IN ULTIMATE CONSUMER'S BILLING STATEMENT. Requires each retail public utility to list as a separate line item on the ultimate consumer's billing statement the amount of the fee imposed and identify the fee as the "state water implementation fee."

Sec. 13.559. EXPIRATION. Provides that the provisions related to the state water implementation fee expire September 1, 2027.

SECTION 3. Amends Chapter 15, Water Code, by adding Subchapter G to read as follows:

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS.

Sec. 15.431. DEFINITION. Defines "fund" as the state water implementation fund for Texas.

Sec. 15.432. STATE WATER IMPLEMENTATION FUND FOR TEXAS. (a) Establishes that the state water implementation fund for Texas is a special fund in the state treasury to be administered by the Texas Water Development Board (TWDB) and rules adopted by the TWDB.

(b) Establishes that the fund consists of the proceeds of any fee or tax imposed by the state provided for by a general law enacted under a certain constitutional provision; any other fees or sources of revenue that the legislature may dedicate for deposit to the credit of the fund; appropriations from the legislature; interest earned on money credited to the fund; and money from gifts, grants, or donations to the fund.

Sec. 15.433. USE OF FUND. (a) Authorizes the TWDB to use money in the fund only to provide financing for projects included in the state water plan that are authorized under Water Code provisions relating to the water infrastructure fund, the acquisition and development of water transmission and treatment facilities, or assistance to economically distressed areas for water supply and sewer service projects, including the payment of the principal of and interest on, or the making of payments under a bond enhancement agreement entered into by the TWDB with respect to the principal of or interest on, bonds issued by the TWDB for those projects.

(b) Requires not less than 20 percent of the money available in the state water implementation fund for Texas to be used to finance conservation and reuse projects included in the state water plan.

Sec. 15.434. TRANSFERS TO OTHER ACCOUNTS. Authorizes the TWDB to direct the comptroller of public accounts to transfer amounts from the fund to the credit of the water infrastructure fund to be used for purposes related to projects included in the state

water plan that are authorized under provisions relating to the water infrastructure fund; the Texas Water Development Fund II state participation account to be used for purposes related to projects included in the state water plan that are authorized under provisions relating to the acquisition and development of facilities regarding water development; or the Texas Water Development Fund II economically distressed areas program account to be used for purposes related to projects included in the state water plan that are authorized under provisions relating to assistance to economically distressed areas for water supply and sewer service projects.

Sec. 15.435. RULES. Requires the TWDB to adopt rules providing for the use of money in the state water implementation fund for Texas consistent with the bill's provisions relating to the fund, including rules defining "conservation and reuse projects."

SECTION 4. Amends Section 15.973 (b), Water Code, by providing that the water infrastructure fund may consist of money transferred from the state water implementation fund for Texas, in addition to the previously listed items including: appropriations from the legislature; any other fees or sources of revenue that the legislature may dedicate for the deposit to the fund; repayments of loans made from the fund; interest earned on money credited to the fund; depository interest allocable to the fund; money from gifts, grants, or donations to the fund; money from revenue bonds or other sources designated by the board; and proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund.

SECTION 5. Amends Section 17.957 (b), Water Code, by providing that the state participation account may be composed of money transferred from the state water implementation fund for Texas, in addition to the previously listed items including: money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Section 16.131; money from the sale, transfer, or lease of a project described in Subdivision (1) that was acquired, constructed, reconstructed, developed, or enlarged with money from the state participation account; payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for project described in Section 16.131; investment income earned on money on deposit in the state participation account; and any other funds, regardless of their source, that the board directs be deposited to the credit of the state participation account.

SECTION 6. Amends Section 17.958 (b), Water Code, by providing that the economically distressed area program account may be composed of money transferred from the state water implementation fund for Texas, in addition to the previously listed items including: money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Subchapter K; money provided by the federal government, the state, political subdivisions, and private entities for the purpose of paying debt service on water financial assistance bonds issued for purposes provided by Subchapter K; investment income earned on money on deposit in economically distressed areas program account; and any other funds, regardless of their source, that the board directs be deposited to the credit of the economically distressed areas program account.

SECTION 7. Requires that the comptroller adopt rules under Subchapter O, Chapter 13, Water Code, no later than January 1, 2012.

SECTION 8. Provides that the fee imposed by Section 13.551, Water Code, as added by this Act, applies only to potable water sold to an ultimate consumer on or after September 1, 2012.

SECTION 9. Requires that the Texas Water Development Board adopt rules providing for the use of money in the state water implementation fund for Texas under Subchapter G, Chapter 15, Water Code, no later than April 1, 2012.

SECTION 10. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect January 1, 2012, but only if the constitutional amendment proposed by the 82nd legislature, Regular Session, 2011, providing for the creation and funding of the state water implementation fund for Texas to assist the Texas Water development Board in the funding of certain projects included in the state water plan is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3273 differs from the original by providing for the creation and implementation of the state water implementation fee under Subchapter O, whereas the original contained no such provisions.

C.S.H.B. 3273 differs from the original by authorizing the Texas Water Development Board (TWDB) to use money in the state water implementation fund for Texas only to provide financing for projects included in the state water plan authorized by certain provisions including the payment of the principal of an interest on, or the making or payments under a bond enhancement agreement entered into by the board with respect to the principal of or interest on, bonds issued by the board for those projects, whereas the original authorizes the TWDB to use the money only to pay the principal of and interest on, or to make payments under a bond enhancement agreement entered into by the board with respect to the principal of or interest on, bonds issued by the board for projects included in the state water plan authorized by certain provisions.

C.S.H.B. 3273 contains provisions not included in the original requiring the comptroller of public accounts to adopt rules relating to the state water implementation fee by January 1, 2012, and establishing that the fee is applicable only to potable water sold to an ultimate consumer on or after September 1, 2012. The substitute differs from the original in nonsubstantive ways.