

BILL ANALYSIS

C.S.H.J.R. 138
By: Ritter
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that over the next half century water supplies in Texas may decrease up to 20 percent while demand may increase by close to 30 percent. While a recent state water plan recommends management strategies to develop several million acre-feet of water supply per year in the next few decades, it has been reported that tens of billions of dollars are needed in capital costs to complete projects identified in the plan, including significant state assistance in the form of certain Texas Water Development Board (TWDB) programs that allow access to low-interest loans, zero-interest loans, and grants for planning, designing, and improving existing facilities. These interested parties further contend that due to increasing cost burdens on local water providers, the capital-intensive investment required in implementing large-scale water supply projects, and the financial constraints of some communities, a dedicated source of funding is needed to assist in developing the projects identified in the state water plan in order to avoid catastrophic conditions in times of drought around the state.

C.S.H.J.R. 138 seeks to address these matters by proposing a constitutional amendment providing for the creation and funding of the state water implementation fund for Texas to assist the TWDB in the funding of certain projects included 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 SECTION 1 of this resolution.

ANALYSIS

SECTION 1. Amends Article III, Texas Constitution, by adding Section 49-d-12 as follows:

Subsection (a) Creates the state water implementation fund for Texas for the financing of certain projects included in the state water plan adopted by the Texas Water Development Board (TWDB) or its successor in function.

(b) Requires money deposited to the credit of the fund for Texas and interest earned on the investment of money credited to the fund to be administered, without further appropriation, by the TWDB or its successor in function and used only to fund projects included in a statewide water plan that is required by general law and adopted by the TWDB or its successor in function.

(c) Authorizes the legislature by general law to provide for the imposition by the state of a fee or tax the proceeds of which are required to be deposited to the credit of the fund and authorizes the legislature by general law to provide for the deposit of other sources of revenue to the credit of the fund. Requires the legislature by general law to prescribe the manner in which money in the fund may be used.

(d) Provides that this subsection expires September 1, 2027. Requires the legislature by general law to provide for the imposition of a public water supply service connection fee to be collected by a water utility from the utility's customers and authorizes the legislature by general law to provide for exemptions from the fee. Requires a collected fee to be deposited to the credit of the fund. Requires the comptroller of public accounts by rule to establish the rate of the fee, not to exceed the following amounts: \$1 each

month, if the connection is for a residential use; \$5 each month, if the connection is for a commercial use; or \$100 each month, if the connection is for an industrial use.

(e) Provides that a general law enacted under applicable provisions of the resolution dedicating revenue to the fund prevails over any act enacted in the same session of the legislature that purports to abolish dedications of revenue in the state treasury for a particular purpose, regardless of the relative dates of enactment.

(f) Requires the comptroller, if the system benefit fund created under the Utilities Code or its successor in function exists on September 1, 2014, to transfer from that fund or its successor in function the lesser of \$500 million or the amount available in that fund or its successor in function to the state water implementation fund for Texas on that date. Provides that this subsection expires September 1, 2015.

SECTION 2. Establishes a temporary provision, set to expire January 1, 2013, applicable to 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 TWDB in the funding of certain projects included in the state water plan, establishing that a general law enacted in anticipation of the adoption of the amendment is not void due to the law's anticipatory character.

SECTION 3. Provides for the effective date of this Act. Sets forth the required language for the ballot.

EFFECTIVE DATE

Requires that this proposed constitutional amendment must be submitted to the voters at an election to be held November 8, 2011. Sets forth the required language for the ballot.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.J.R. 138 differs from the original by requiring money deposited to the credit of the state water implementation fund for Texas and interest earned on the investment of money credited to the fund to be administered, without further appropriation, by the Texas Water Development Board (TWDB) or its successor in function and used only for specified purposes, whereas the original authorizes such money and interest to be appropriated only to the TWDB or its successor in function and used only for those same purposes.

C.S.H.J.R. 138 differs from the original by authorizing the legislature by general law to provide for the imposition by the state of a fee or tax the proceeds of which are required to be deposited to the credit of the fund, whereas the original requires the legislature by general law to provide for such imposition. The substitute differs from the original by requiring the legislature by general law to prescribe the manner in which money in the fund may be used, whereas the original authorizes the legislature to prescribe that manner.

C.S.H.J.R. 138 contains temporary provisions not included in the original requiring the legislature by general law to provide for the imposition of a public water supply service connection fee, authorizing the legislature by general law to provide for exemptions from the fee, requiring such a collected fee to be deposited to the credit of the fund, and requiring the comptroller of public accounts by rule to establish the rate of the fee.

C.S.H.J.R. 138 contains a temporary provision not included in the original requiring the comptroller to transfer a certain amount from the system benefit fund created under the Utilities Code or its successor in function to the state water implementation fund for Texas under certain circumstances.

C.S.H.J.R. 138 differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions.