

BILL ANALYSIS

C.S.H.B. 4
By: Ritter
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2011, Texas experienced what was reported to be the worst one-year drought on record. Although drought is not new to Texas, the 2011 drought highlighted the importance of long-range planning to meet the state's water needs. Over the next 50 years, both population and water demand in the state is estimated to significantly increase, while existing water supply is projected to decrease. The *Water For Texas 2012 State Water Plan* includes many unique water supply strategies. These strategies include conservation, drought management, surface water projects, groundwater resource projects, water reuse, desalination, and a variety of other management solutions.

The estimated total capital cost of the 2012 State Water Plan, representing the capital cost of all water management strategies recommended in the 2011 regional water plans, is more than \$50 billion. Based on surveys conducted as part of the planning process, water providers will need significant support through state financial assistance to implement these recommended water strategies. If state financial assistance is not provided to implement these regional water management strategies, during a repeat of the 2011 drought of record, the state could suffer significant economic losses and the majority of Texas' population could face a critical water shortage.

C.S.H.B. 4 attempts to address these needs by creating the state water implementation fund for Texas and the state water implementation revenue fund for Texas in order to assist the Texas Water Development Board in providing low-cost financial assistance to local and regional water providers for projects currently identified in the 2012 State Water Plan. The fund is intended to provide adequate and meaningful funding through financial assistance and other incentives in the development of new water supply strategies outlined in the state water plan, as identified and requested by regional planning groups across the state of Texas

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 2, SECTION 7, and SECTION 16 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the State Water Implementation Fund for Texas Advisory Committee in SECTION 2 of this bill.

ANALYSIS

SECTION 1. Provides purpose and intent of the legislation.

SECTION 2. Amends Chapter 15, Water Code, by adding Subchapters G and H, as follows:

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

Sec. 15.431. Provides for definitions in Subchapter G, Water Code, Chapter 15:

(1) "Advisory committee" means the State Water Implementation Fund for Texas Advisory Committee.

(2) "Fund" means the state water implementation fund for Texas.

(3) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Sec. 15.432. FUND. (a) Provides that the state water implementation fund for Texas is a special fund outside the state treasury to be used by the Texas Water Development Board (board), without further legislative appropriation, for the purpose of implementing the state water plan as provided by this subchapter. Provides that the board may establish separate accounts in the fund. Provides that the fund and the fund's accounts are kept and held by the trust company in escrow and in trust for and in the name of the board. Provides that the board has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and board rules.

(b) Provides that the money deposited to the credit of the fund may be used only as provided by this subchapter.

(c) Provides that the fund consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund; and

(5) money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by Section 15.435.

Sec. 15.433. MANAGEMENT AND INVESTMENT OF FUND. (a) Provides that the trust company shall hold and invest the fund, and any accounts established in the fund, for and in the name of the board, taking into account the purposes for which money in the fund may be used. Provides that the fund may be co-invested with the state treasury pool.

(b) Provides that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund.

(c) Provides that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. Provides that, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) Provides that the trust company may recover the costs incurred in managing and investing the fund only from the earnings of the fund.

(e) Provides that the trust company annually shall report to the board and to the advisory committee with respect to the investment of the fund. Provides that the trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the board and to the advisory committee. Provides that this subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321, Government Code.

(f) Provides that the trust company shall adopt an investment policy that is appropriate for the fund. Provides that the trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code. Provides that the investment advisory board shall submit to the trust company recommendations regarding the policy.

(g) Provides that the board annually shall provide to the trust company a forecast of the cash flows into and out of the fund. Provides that the board shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) Provides that the trust company shall disburse money from the fund as directed by the board. Provides that the board shall direct disbursements from the fund on a semiannual schedule specified by the board and not more frequently than twice in any state fiscal year.

(i) Provides that an investment-related contract entered into under this section is not subject to Chapter 2260, Government Code.

Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) Provides that, at the direction of the board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond enhancement agreement authorized by Section 15.435 in the amounts the board determines are needed for debt service payments on or security provisions of the board's general obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account.

(b) Provides that, of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, the board shall undertake to apply not less than:

(1) 10 percent to support projects described by Section 15.435 that are designed to serve rural areas; and

(2) 20 percent to support projects described by Section 15.435 that are for water conservation or reuse.

Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) Provides that a bond enhancement agreement entered into under this section is an agreement for professional services and the agreement, including the period covered by the agreement and all other terms and conditions of the agreement, must be approved by the board.

(b) Provides that the board may direct the trust company to enter into bond enhancement agreements to provide a source of revenue or security for the payment of the principal of and interest on general obligation bonds or revenue bonds issued by the board to finance or refinance projects included in the state

water plan if the proceeds of the sale of the bonds have been or will be deposited to the credit of:

(1) the state water implementation revenue fund for Texas to be used to provide financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, as authorized under Subchapter H of this chapter;

(2) the water infrastructure fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter Q;

(3) the rural water assistance fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter R;

(4) the Texas Water Development Fund II state participation account to be used to provide financing for projects included in the state water plan as authorized under Subchapter E, Chapter 16; or

(5) the agricultural water conservation fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter J, Chapter 17.

(c) Provides that the board may direct the trust company to enter into a bond enhancement agreement obligating disbursements from the fund to another fund or account as provided by Subsection (b) for the support of:

(1) a loan bearing an interest rate of not less than 50 percent of the then-current market rate of interest available to the board;

(2) a loan to finance a facility under repayment terms similar to the terms of debt customarily issued by the entity requesting assistance but not to exceed the lesser of:

(A) the expected useful life of the facility; or

(B) 30 years;

(3) a deferral of loan repayment, including deferral of the repayment of:

(A) principal and interest; or

(B) accrued interest;

(4) incremental repurchase terms for an acquired facility, including terms for no initial repurchase payment followed by progressively increasing incremental levels of interest payment, repurchase of principal and interest, and ultimate repurchase of the entire state interest in the facility using simple interest calculations; or

(5) a combination of the methods of financing described by Subdivisions (1)-(4).

(d) Provides that the board may direct the trust company to enter into bond enhancement agreements with respect to bonds issued by the board before September 1, 2013, only if:

(1) those bonds otherwise satisfy the requirements of Subsections (b) and (c);

(2) the proceeds of those bonds were or are required to be used only for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053; and

(3) general revenue has been appropriated for the payment of debt service on those bonds.

(e) Provides that the board may direct the trust company to enter into bond enhancement agreements with respect to refunding bonds issued by the board to refund bonds issued by the board the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c).

(f) Provides that the board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which have been or are to be used to make grants.

(g) Provides that the board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant unless at the time of the request:

(1) the applicant has submitted and implemented a water conservation plan in accordance with Section 11.1271; and

(2) the applicable regional water planning group has complied with Subsection (h).

(h) Provides that each regional water planning group shall provide the information described by Section 16.053(q) to the board at the time it submits its adopted regional water plan to the board.

(i) Provides that the board may not approve a bond enhancement agreement with respect to bonds issued by the board unless the agreement contains a provision to the effect that if the trust company makes a disbursement under the bond enhancement agreement from the fund to the credit of another fund or account as provided by Section 15.434(a), the board shall direct the comptroller to transfer an amount not to exceed that amount from the fund or account receiving the payment back to the fund if:

(1) money is available in the surplus balance in the fund or account for that purpose; and

(2) the money transferred back to the fund will not cause general obligation bonds that are payable from the fund or account receiving the payment to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution.

(j) Provides that, for purposes of Subsection (i)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by the board, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of the board's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of acquired facilities, money received from the sale of water associated with the acquired facilities, and related investment earnings, that exceeds the amount required to pay current debt service on the bonds.

(k) Provides that the board may submit a bond enhancement agreement and the record relating to the agreement to the attorney general for examination as to the validity of the agreement. If the attorney general finds that the agreement has been made in accordance with the constitution and other laws of this state, the attorney general shall approve the agreement and the comptroller shall register the agreement.

(l) Provides that, after a bond enhancement agreement has been approved and registered as provided by Subsection (k), the agreement is valid and is incontestable for any cause.

Sec. 15.436. **ADDITIONAL BONDING AUTHORITY.** Provides that, in addition to issuing revenue bonds under Subchapter H of this chapter for the purposes of this subchapter, the board may issue revenue bonds under Subchapter I, Chapter 17, for those purposes.

Sec. 15.437. **PRIORITIZATION OF PROJECTS BY REGIONAL WATER PLANNING GROUPS.** (a) Provides that each regional water planning group shall prioritize projects in its respective regional water planning area for the purposes of Section 15.435. Provides that, at a minimum, a regional water planning group must consider the following criteria in prioritizing each project:

(1) the decade in which the project will be needed;

(2) the feasibility of the project, including the availability of water rights for purposes of the project and the hydrological and scientific practicability of the project;

(3) the viability of the project, including whether the project is a comprehensive solution with a measurable outcome;

(4) the sustainability of the project, taking into consideration the life of the project; and

(5) the cost-effectiveness of the project, taking into consideration the expected unit cost of the water to be supplied by the project.

(b) Provides that, in prioritizing projects, each regional water planning group shall include projects that meet long-term needs as well as projects that meet short-term needs.

(c) Provides that the board shall create a stakeholders committee composed of the presiding officer or a person designated by the presiding officer of each regional water planning group to establish uniform standards to be used by the regional water planning groups in prioritizing projects under this section. Uniform standards established under this subsection must be approved by the board. The board shall consult the stakeholders committee from time to time regarding regional prioritization of projects.

(d) Provides that each regional water planning group shall submit the prioritization developed by the group under this section together with the group's respective regional water plan developed and submitted under Section 16.053.

Sec. 15.438. **PRIORITIZATION OF PROJECTS BY BOARD.** (a) Provides that the board shall prioritize projects included in the state water plan for the purpose of providing financial assistance under this subchapter.

(b) Provides that the board shall establish a point system for prioritizing projects for which financial assistance is sought from the board. Provides that the system must include a standard for the board to apply in determining whether a project qualifies for financial assistance at the time the application for financial assistance is filed with the board.

(c) Provides that the board shall give the highest consideration in awarding points to projects that will have a substantial effect, including projects that will:

- (1) serve a large population;
- (2) provide assistance to a diverse urban and rural population; or
- (3) provide regionalization.

(d) Provides that, in addition to the criteria provided by Subsection (c), the board must also consider at least the following criteria in prioritizing projects:

- (1) the local contribution to be made to finance the project, including the up-front capital to be provided by the applicant;
- (2) the financial capacity of the applicant to repay the financial assistance provided;
- (3) the ability of the board and the applicant to timely leverage state financing with local and federal funding;
- (4) whether there is an emergency need for the project, taking into consideration whether:
 - (A) the applicant is included at the time of the application on the list maintained by the commission of local public water systems that have a water supply that will last less than 180 days without additional rainfall; and
 - (B) federal funding for which the project is eligible has been used or sought;
- (5) if the applicant is applying for financial assistance for the project under Subchapter Q, whether the applicant is ready to proceed with the project at the time of the application, including whether:
 - (A) all preliminary planning and design work associated with the project has been completed;
 - (B) the applicant has acquired the water rights associated with the project;
 - (C) the applicant has secured funding for the project from other sources; and
 - (D) the applicant is able to begin implementing or constructing the project;
- (6) the demonstrated or projected effect of the project on water conservation, including preventing the loss of water, taking into consideration, if applicable, whether the applicant has filed a water audit with the board under Section 16.0121 that demonstrates that the applicant is accountable with regard to reducing water loss and increasing efficiency in the distribution of water; and
- (7) the priority given the project by the applicable regional water planning group under Section 15.437.

Sec. 15.439. ADVISORY COMMITTEE. (a) Provides that The State Water Implementation Fund for Texas Advisory Committee is composed of the following seven members:

- (1) the comptroller, or a person designated by the comptroller;
- (2) three members of the senate appointed by the lieutenant governor, including:
 - (A) a member of the committee of the senate having primary jurisdiction over matters relating to finance; and
 - (B) a member of the committee of the senate having primary jurisdiction over natural resources; and
- (3) three members of the house of representatives appointed by the speaker of the house of representatives, including:
 - (A) a member of the committee of the house of representatives having primary jurisdiction over appropriations; and
 - (B) a member of the committee of the house of representatives having primary jurisdiction over natural resources.

(b) Provides that the following persons shall serve as staff support for the advisory committee:

- (1) the deputy executive administrator of the board who is responsible for water science and conservation, or a person designated by that deputy executive administrator;
- (2) the deputy executive administrator of the board who is responsible for water resources planning and information, or a person designated by that deputy executive administrator; and
- (3) the chief financial officer of the board.

(c) Provides that an appointed member of the advisory committee serves at the will of the person who appointed the member.

(d) Provides that the lieutenant governor shall appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor, and the speaker of the house of representatives shall appoint a co-presiding officer of the committee from among the members appointed by the speaker.

(e) Provides that the advisory committee may hold public hearings, formal meetings, or work sessions. Either co-presiding officer of the advisory committee may call a public hearing, formal meeting, or work session of the advisory committee at any time. The advisory committee may not take formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(f) Provides that a member of the advisory committee is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee.

(g) Provides that the advisory committee shall submit comments and recommendations to the board regarding the use of money in the fund for use by the board in adopting rules under Section 15.440. The submission must include:

(1) comments and recommendations on rulemaking related to the prioritization of projects in regional water plans and the state water plan in accordance with Sections 15.437 and 15.438;

(2) comments and recommendations on rulemaking related to establishing standards for determining whether projects meet the criteria provided by Section 15.434(b);

(3) an evaluation of the available programs for providing financing for projects included in the state water plan and guidelines for implementing those programs, including guidelines for providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17;

(4) an evaluation of the lending practices of the board and guidelines for lending standards;

(5) an evaluation of the use of funds by the board to provide support for financial assistance for water projects, including support for the purposes described by Section 15.435(c);

(6) an evaluation of whether premium financing programs should be established within the funds described by Section 15.435 to serve the purposes of this subchapter, especially in connection with projects described by Section 15.434(b);

(7) an evaluation of methods of awarding contracts that may be more effective than competitive bidding in promoting competitive procurements and encouraging participation in the procurement process by companies domiciled in this state; and

(8) an evaluation of the overall operation, function, and structure of the fund.

(h) Provides that the advisory committee shall review the overall operation, function, and structure of the fund at least semiannually and may provide comments and recommendations to the board on any matter.

(i) Provides that the advisory committee may adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

(j) Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

(k) Provides that the advisory committee is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the advisory committee is abolished and this section expires September 1, 2023.

Sec. 15.440. RULES. (a) Provides that the board shall adopt rules providing for the use of money in the fund that are consistent with this subchapter, including rules:

(1) establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); and

(2) specifying the manner for prioritizing projects for purposes of Section 15.438.

(b) Provides that the board shall give full consideration to the recommendations of the advisory committee before adopting rules under this subchapter.

Sec. 15.441. REPORT. Provides that, not later than December 1 of each even-numbered year, the board shall provide a report to the governor, lieutenant governor, speaker of the

house of representatives, and members of the legislature regarding the use of the fund, including the use of the fund to satisfy the requirements of Section 15.434(b).

SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

Sec. 15.471. DEFINITION. Provides that in this subchapter, "fund" means the state water implementation revenue fund for Texas.

Sec. 15.472. FUND. (a) Provides that the state water implementation revenue fund for Texas is a special fund outside the state treasury to be used by the board, without further legislative appropriation, for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. The board may establish separate accounts in the fund. The board has legal title to money and investments in the fund until the money is disbursed as provided by this subchapter and board rules.

(b) Provides that money deposited to the credit of the fund may be used only as provided by this subchapter.

(c) Provides that the fund consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund; and

(5) the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the board for the purpose of providing money for the fund.

Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Provides that money deposited to the credit of the fund shall be invested as determined by the board. Provides that the fund may be co-invested with the state treasury pool.

(b) Provides that the fund and any accounts established in the fund shall be kept and maintained by or at the direction of the board.

(c) Provides that, at the direction of the board, the fund and any accounts established in the fund may be kept and held in escrow and in trust by the comptroller for and on behalf of the board and pending their use for the purposes provided by this subchapter may be invested as provided by an order, resolution, or rule of the board.

(d) Provides that the comptroller, as custodian, shall administer the fund in strict accordance with this subchapter and the orders, resolutions, and rules of the board.

Sec. 15.474. USE OF FUND. (a) Provides that, except as provided by Subsection (c), money in the fund may be used by the board only to provide financing or refinancing, under terms specified by the board, for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, including water conservation or reuse projects designed to

reduce the need for this state or political subdivisions of this state to develop additional water resources.

(b) Provides that financing or refinancing of projects described by Subsection (a) may be provided by using money in the fund to:

(1) make loans to fund participants or to purchase bonds or other obligations of fund participants bearing interest at a rate or rates determined by the board, including rates below prevailing market rates; or

(2) guarantee debt service payments on obligations of fund participants, or to purchase insurance guaranteeing such payments, if the board determines that the guarantee or purchase will:

(A) improve access to the credit market;

(B) reduce the interest cost of the obligations; or

(C) enhance the value of the assets of the fund.

(c) Provides that the board may use money in the fund:

(1) as a source of revenue or security for the payment of the principal of and interest on revenue bonds issued by the board under this subchapter or other bonds issued by the board if the proceeds of the bonds will be deposited in the fund; or

(2) to pay the necessary and reasonable expenses of paying agents, bond counsel, and financial advisory services and similar costs incurred by the board in administering the fund.

Sec. 15.475. TRANSFERS TO OR FROM OTHER FUNDS OR ACCOUNTS. (a) Provides that the board may direct the comptroller to transfer amounts, under terms specified by the board, from the fund to the credit of:

(1) the water infrastructure fund to be used under Subchapter Q for the purposes provided by Section 15.434 related to projects included in the state water plan;

(2) the rural water assistance fund to be used under Subchapter R for the purposes provided by Section 15.434 related to projects included in the state water plan;

(3) the Texas Water Development Fund II state participation account to be used under Subchapter E or F, Chapter 16, for the purposes provided by Section 15.434 related to projects included in the state water plan; or

(4) the agricultural water conservation fund to be used under Subchapter J, Chapter 17, for the purposes provided by Section 15.434 related to projects included in the state water plan.

(b) Provides that if the comptroller transfers an amount from the fund to the credit of another fund or account as provided by this section, the board may direct the comptroller to transfer an amount from the other fund or account to the fund if money is available in the other fund or account for that purpose.

Sec. 15.476. ISSUANCE OF REVENUE BONDS. (a) Provides that the board may issue revenue bonds for the purpose of providing money for the fund.

- (b) Provides that the board may issue revenue bonds to refund revenue bonds or bonds and obligations issued or incurred in accordance with other provisions of law.
- (c) Provides that revenue bonds issued under this subchapter are special obligations of the board payable from and secured by designated income and receipts of the fund, including principal of and interest paid and to be paid on fund assets or income from accounts created within the fund by the board, as determined by the board.
- (d) Provides that revenue bonds issued under this subchapter do not constitute indebtedness of the state as prohibited by the constitution.
- (e) Provides that the board may require fund participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.
- (f) Provides that revenue bonds issued under this subchapter must be authorized by resolution of the board and must have the form and characteristics and bear the designations as the resolution provides.
- (g) Provides that revenue bonds issued under this subchapter may:
 - (1) bear interest at the rate or rates payable annually or otherwise;
 - (2) be dated;
 - (3) mature at the time or times, serially, as term revenue bonds, or otherwise in not more than 50 years from their dates;
 - (4) be callable before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided by the resolution;
 - (5) be issued in temporary or permanent form;
 - (6) be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable; and
 - (7) be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this subchapter or may be issued without parity and secured differently than other revenue bonds.
- (h) Provides that all proceedings relating to the issuance of revenue bonds issued under this subchapter shall be submitted to the attorney general for examination. Provides that if the attorney general finds that the revenue bonds have been authorized in accordance with law, the attorney general shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller. Provides that after the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.
- (i) Provides that the proceeds received from the sale of revenue bonds issued under this subchapter may be deposited or invested in any manner and in the obligations as may be specified in the resolution or other proceedings authorizing those obligations. Provides that money in the fund or accounts created by this subchapter or created in the resolution

or other proceedings authorizing the revenue bonds may be invested in any manner and in any obligations as may be specified in the resolution or other proceedings.

SECTION 3. Amends Section 15.973(b), Water Code, as follows:

(b) Provides that the fund consists of:

- (1) appropriations from the legislature;
- (2) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;
- (3) repayments of loans made from the fund;
- (4) interest earned on money credited to the fund;
- (5) depository interest allocable to the fund;
- (6) money from gifts, grants, or donations to the fund;
- (7) money from revenue bonds or other sources designated by the board;
- (8) 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; and
- (9) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434.

Makes nonsubstantive changes.

SECTION 4. Amends Section 15.974, Water Code, by adding Subsection (b) as follows:

(b) Provides that the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.973(b)(9) if the requirements of Section 15.435 are satisfied.

SECTION 5. Amends Section 15.993, Water Code, as follows:

Sec. 15.993. FUND. Provides that the rural water assistance fund is a special fund in the state treasury. The fund consists of:

- (1) money directly appropriated to the board for a purpose of the fund;
- (2) repayment of principal and interest from loans made from the fund not otherwise needed as a source of revenue pursuant to Section 17.9615(b);
- (3) money transferred by the board from any sources available;
- (4) interest earned on the investment of money in the fund and depository interest allocable to the fund;
- (5) money transferred to the fund from the water assistance fund in accordance with Section 15.011(b), including proceeds from the sale of political subdivision bonds by the board to the Texas Water Resources Finance Authority that are deposited in the water assistance fund as provided by Section 17.0871;
- (6) money from gifts, grants, or donations to the fund;

(7) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and

(8) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund.

Makes nonsubstantive changes.

SECTION 6. Amends Section 15.994, Water Code, by adding Subsection (i) as follows:

(i) Provides that the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.993(7) if the requirements of Section 15.435 are satisfied.

SECTION 7. Amends Section 17.183, Water Code, as follows:

Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) Provides that the governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications;

Strikes the provision relating to sound engineering principles and practices.

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; and

(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible.

Makes nonsubstantive changes.

(b) Provides that plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards.

SECTION 8. Amends Section 17.185(a), Water Code, as follows:

(a) Provides that the board may inspect the construction of a project at any time to assure that the contractor is substantially complying with the approved engineering plans and specifications of the project.

Strikes the provision stating that the contractor is constructing the project in accordance with sound engineering principles.

Makes nonsubstantive changes.

SECTION 9. Amends Section 17.187, Water Code, as follows:

Sec. 17.187. CERTIFICATE OF APPROVAL. Provides that the executive administrator may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans and specifications;
or

(2) failure to comply with any term of the contract.

Strikes the provision stating that failure to construct the works in accordance with sound engineering principles.

Makes nonsubstantive changes.

SECTION 10. Amends Section 17.276(c), Water Code, as follows:

(c) Provides that the board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided for treatment works and the amount of any such assistance.

Strikes the provision stating that in consultation with and pursuant to agreement with the political subdivision, except as provided by Subsection (d) of this section, the board shall determine the location, time, design, scope, and all other aspects of the construction of a sewerage system for which financial assistance is provided.

Makes nonsubstantive changes.

SECTION 11. Amends Section 17.775(c), Water Code, as follows:

(c) Provides that the board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided and the amount of any such assistance.

Strikes the provision stating that in consultation with and pursuant to agreement with the political subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction to be performed.

Makes nonsubstantive changes.

SECTION 12. Amends Section 17.895, Water Code, as follows:

Sec. 17.895. SOURCES OF ASSETS. Provides that the fund is composed of:

- (1) money and assets, including bond proceeds, attributable to the bonds;
- (2) investment income earned on money on deposit in the fund and depository interest earned on money on deposit in the state treasury;
- (3) money appropriated by the legislature;
- (4) repayments of principal and interest on loans made under this subchapter;
- (5) administrative fees charged by the board under the bond program;
- (6) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and
- (7) any other funds, regardless of their source, that the board directs be deposited to the credit of the fund.

Makes nonsubstantive changes.

SECTION 13. Amends Section 17.899, Water Code, by adding Subsection (c) as follows:

(c) Provides that the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 17.895(6) if the requirements of Section 15.435 are satisfied.

SECTION 14. Amends Section 17.957, Water Code, by amending Subsection (b) and adding Subsection (d) as follows:

(b) Provides that the state participation account is composed of:

- (1) money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Section 16.131;
- (2) 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;
- (3) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for projects described in Section 16.131;

(4) investment income earned on money on deposit in the state participation account;

(5) money transferred from the state water implementation fund for Texas as authorized by Section 15.434; and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the state participation account.

Makes nonsubstantive changes.

(d) Provides that the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Subsection (b)(5) of this section if the requirements of Section 15.435 are satisfied.

SECTION 15. Provides that as soon as practicable after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the initial appointive members of the State Water Implementation Fund for Texas Advisory Committee as provided by Section 15.439, Water Code, as added by this Act.

SECTION 16. (a) Provides that not later than September 1, 2014, the State Water Implementation Fund for Texas Advisory Committee shall submit recommendations to the Texas Water Development Board on the rules to be adopted by the board under Sections 15.440(a)(1) and (2), Water Code, as added by this Act.

(b) Provides that not later than the later of the 90th day after the date the Texas Water Development Board receives the recommendations described by Subsection (a) of this section or March 1, 2015, the board shall adopt rules under Section 15.440, Water Code, as added by this Act.

SECTION 17. (a) Provides that each regional water planning group that has not previously provided the information to the Texas Water Development Board described by Section 16.053(q), Water Code, shall provide the information not later than September 1, 2014.

(b) Provides that Section 15.435(h), Water Code, as added by this Act, applies to a regional water plan beginning with the plan that is required to be submitted to the Texas Water Development Board by January 5, 2016.

SECTION 18. (a) Provides that each regional water planning group shall prioritize the projects included in the regional water plan most recently adopted by the group in accordance with Section 15.437, Water Code, as added by this Act, and submit the prioritization of the projects to the Texas Water Development Board not later than September 1, 2014.

(b) Provides that Section 15.437(d), Water Code, as added by this Act, applies to a regional water plan beginning with the plan that is required to be submitted to the Texas Water Development Board by January 5, 2016.

SECTION 19. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect September 1, 2013.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 4 differs from the original by providing a statement of purpose and intent of the legislation, whereas the original did not contain this provision.

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C.S.H.B. 4 differs from the original by providing a definition of trust company to mean the Texas Treasury Safekeeping Trust Company, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that the state water implementation fund for Texas is a special fund outside the state treasury to be used by the board, without further legislative appropriation, for the purpose of implementing the state water plan as provided by this subchapter, that the board may establish separate accounts in the fund, that the fund and the fund's accounts are kept and held by the trust company in escrow and in trust for and in the name of the board, and that the board has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and board rules, whereas the original stated that the state water implementation fund for Texas is a special fund outside the state treasury to be administered without further appropriation by the board under this subchapter and rules adopted by the board under this subchapter.

C.S.H.B. 4 differs from the original by stating that money deposited to the credit of the fund may be used only as provided by this subchapter, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that the fund consists of money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as authorized by law; the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund; any other revenue that the legislature by statute dedicates for deposit to the credit of the fund; investment earnings and interest earned on amounts credited to the fund; and money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by Section 15.435, whereas the original stated that the fund consists of money transferred or deposited to the credit of the fund by law; the proceeds of any fee or tax imposed by this state that the legislature by statute dedicates for deposit to the credit of the fund; any other revenue that the legislature by statute dedicates for deposit to the credit of the fund; and interest earned on the balance of the fund.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company shall hold and invest the fund, and any accounts established in the fund, for and in the name of the board, taking into account the purposes for which money in the fund may be used, and that the fund may be co-invested with the state treasury pool, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund, and that in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company may recover the costs incurred in managing and investing the fund only from the earnings of the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company annually shall report to the board and to the advisory committee with respect to the investment of

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the fund, that the trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the board and to the advisory committee, and that this subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321, Government Code, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company shall adopt an investment policy that is appropriate for the fund, that the trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code, and that the investment advisory board shall submit to the trust company recommendations regarding the policy, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board annually shall provide to the trust company a forecast of the cash flows into and out of the fund, and that the board shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b), whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the trust company shall disburse money from the fund as directed by the board, and that the board shall direct disbursements from the fund on a semiannual schedule specified by the board and not more frequently than twice in any state fiscal year, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that an investment-related contract entered into under this section is not subject to Chapter 2260, Government Code, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that, at the direction of the board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond enhancement agreement authorized by Section 15.435 in the amounts the board determines are needed for debt service payments on or security provisions of the board's general obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account, whereas the original stated that the board may use money in the fund only to provide financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E, Chapter 16, or Subchapter J or K, Chapter 17, including water conservation or reuse projects designed to reduce the need for this state or political subdivisions of this state to develop additional water resources; or education projects developed or approved by the board that are related to the development of water resources, the conservation of existing water resources, or water reuse.

C.S.H.B. 4 differs from the original by stating that of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, the board shall undertake to apply not less than 10 percent to support projects described by Section 15.435 that are designed to serve rural areas; and 20 percent to support projects described by Section 15.435 that are for water conservation or reuse, whereas the original stated that not less than 20 percent of the money from the fund used by the board in any state fiscal biennium must be used to finance projects described by Subsection (a) for water conservation or reuse or education.

C.S.H.B. 4 differs from the original by striking the provision stating that the board shall undertake to use money from the fund in an amount sufficient to provide adequate financing for projects described by Subsection (a) in each regional water planning area in this state, and that the board shall prioritize projects in each regional water planning area for purposes of this subsection.

C.S.H.B. 4 differs from the original by providing a provision stating that a bond enhancement agreement entered into under this section is an agreement for professional services and the agreement, including the period covered by the agreement and all other terms and conditions of

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the agreement, must be approved by the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may direct the trust company to enter into bond enhancement agreements to provide a source of revenue or security for the payment of the principal of and interest on general obligation bonds or revenue bonds issued by the board to finance or refinance projects included in the state water plan if the proceeds of the sale of the bonds have been or will be deposited to the credit of the state water implementation revenue fund for Texas to be used to provide financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, as authorized under Subchapter H of this chapter; the water infrastructure fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter Q; the rural water assistance fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter R; the Texas Water Development Fund II state participation account to be used to provide financing for projects included in the state water plan as authorized under Subchapter E, Chapter 16; or the agricultural water conservation fund to be used to provide financing for projects included in the state water plan as authorized under Subchapter J, Chapter 17, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that if the comptroller transfers an amount from the fund to the credit of another fund or account as provided by this section, the board may direct the comptroller to transfer an amount from the other fund or account to the fund if money is available in the other fund or account for that purpose, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may direct the trust company to enter into a bond enhancement agreement obligating disbursements from the fund to another fund or account as provided by Subsection (b) for the support of either a loan bearing an interest rate of not less than 50 percent of the then-current market rate of interest available to the board; a loan to finance a facility under repayment terms similar to the terms of debt customarily issued by the entity requesting assistance but not to exceed the lesser of the expected useful life of the facility, or 30 years; a deferral of loan repayment, including deferral of the repayment of principal and interest or accrued interest; incremental repurchase terms for an acquired facility, including terms for no initial repurchase payment followed by progressively increasing incremental levels of interest payment, repurchase of principal and interest, and ultimate repurchase of the entire state interest in the facility using simple interest calculations; or a combination of these methods of financing described above, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may direct the trust company to enter into bond enhancement agreements with respect to bonds issued by the board before September 1, 2013, only if those bonds otherwise satisfy the requirements of Subsections (b) and (c); the proceeds of those bonds were or are required to be used only for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053; and general revenue has been appropriated for the payment of debt service on those bonds, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may direct the trust company to enter into bond enhancement agreements with respect to refunding bonds issued by the board to refund bonds issued by the board the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c), whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which have been or are to be used to make grants, whereas the original did not contain this provision.

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C.S.H.B. 4 differs from the original by providing a provision stating that the board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which may be used to provide financial assistance to an applicant unless at the time of the request the applicant has submitted and implemented a water conservation plan in accordance with Section 11.1271, and the applicable regional water planning group has complied with Subsection (h), whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that each regional water planning group shall provide the information described by Section 16.053(q), Water Code, to the board at the time it submits its adopted regional water plan to the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may not approve a bond enhancement agreement with respect to bonds issued by the board unless the agreement contains a provision to the effect that if the trust company makes a disbursement under the bond enhancement agreement from the fund to the credit of another fund or account as provided by Section 15.434(a), the board shall direct the comptroller to transfer an amount not to exceed that amount from the fund or account receiving the payment back to the fund if money is available in the surplus balance in the fund or account for that purpose, and the money transferred back to the fund will not cause general obligation bonds that are payable from the fund or account receiving the payment to no longer be self-supporting for purposes of Section 49-j(b), Article III, Texas Constitution, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that for purposes of Subsection (i)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by the board, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of the board's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of acquired facilities, money received from the sale of water associated with the acquired facilities, and related investment earnings, that exceeds the amount required to pay current debt service on the bonds, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may submit a bond enhancement agreement and the record relating to the agreement to the attorney general for examination as to the validity of the agreement, and that if the attorney general finds that the agreement has been made in accordance with the constitution and other laws of this state, the attorney general shall approve the agreement and the comptroller shall register the agreement, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that after a bond enhancement agreement has been approved and registered as provided by Subsection (k), the agreement is valid and is incontestable for any cause, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that, in addition to issuing revenue bonds under Subchapter H of Chapter 15 created by this Act for the purposes of this subchapter, the board may issue revenue bonds under Subchapter I, Chapter 17, for those purposes, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that each regional water planning group shall prioritize projects in its respective regional water planning area for the purposes of Section 15.435, and that at a minimum, a regional water planning group must consider certain criteria in prioritizing each project, including the decade in which the project will be needed; the feasibility of the project, including the availability of water rights for

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purposes of the project and the hydrological and scientific practicability of the project; the viability of the project, including whether the project is a comprehensive solution with a measurable outcome; the sustainability of the project, taking into consideration the life of the project; and the cost-effectiveness of the project, taking into consideration the expected unit cost of the water to be supplied by the project, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that in prioritizing projects, each regional water planning group shall include projects that meet long-term needs as well as projects that meet short-term needs, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board shall create a stakeholders committee composed of the presiding officer or a person designated by the presiding officer of each regional water planning group to establish uniform standards to be used by the regional water planning groups in prioritizing projects under this section, that uniform standards established under this subsection must be approved by the board, and that the board shall consult the stakeholders committee from time to time regarding regional prioritization of projects, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that each regional water planning group shall submit the prioritization developed by the group under this section together with the group's respective regional water plan developed and submitted under Section 16.053, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board shall prioritize projects included in the state water plan for the purpose of providing financial assistance under Subchapter H, Chapter 15, Water Code, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board shall establish a point system for prioritizing projects for which financial assistance is sought from the board, and that the system must include a standard for the board to apply in determining whether a project qualifies for financial assistance at the time the application for financial assistance is filed with the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board shall give the highest consideration in awarding points to projects that will have a substantial effect, including projects that will either serve a large population, provide assistance to a diverse urban and rural population, or provide regionalization, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that in addition to the criteria provided by Subsection (c), the board must also consider at least certain criteria in prioritizing projects, including the local contribution to be made to finance the project, including the up-front capital to be provided by the applicant; the financial capacity of the applicant to repay the financial assistance provided; the ability of the board and the applicant to timely leverage state financing with local and federal funding; whether there is an emergency need for the project, taking into consideration whether the applicant is included at the time of the application on the list maintained by the commission of local public water systems that have a water supply that will last less than 180 days without additional rainfall, and federal funding for which the project is eligible has been used or sought; if the applicant is applying for financial assistance for the project under Subchapter Q, whether the applicant is ready to proceed with the project at the time of the application, including whether all preliminary planning and design work associated with the project has been completed, the applicant has acquired the water rights associated with the project, the applicant has secured funding for the project from other sources; and the applicant is able to begin implementing or constructing the project; the demonstrated or projected effect of the project on water conservation, including preventing the loss of water, taking into consideration, if applicable, whether the applicant has filed a water audit with the board under Section 16.0121 that demonstrates that the applicant is accountable with regard to reducing water loss and increasing efficiency in the distribution of water; and the priority given

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the project by the applicable regional water planning group under Section 15.437, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that the State Water Implementation Fund for Texas Advisory Committee is composed of seven members, including the comptroller, or a person designated by the comptroller; three members of the senate appointed by the lieutenant governor, including a member of the committee of the senate having primary jurisdiction over matters relating to finance, and a member of the committee of the senate having primary jurisdiction over natural resources; and three members of the house of representatives appointed by the speaker of the house of representatives, including a member of the committee of the house of representatives having primary jurisdiction over appropriations; and a member of the committee of the house of representatives having primary jurisdiction over natural resources, whereas the original stated that the State Water Implementation Fund for Texas Advisory Committee is composed of members appointed by the speaker of the house of representatives, the lieutenant governor, and the governor.

C.S.H.B. 4 differs from the original by providing a provision stating that certain persons shall serve as staff support for the advisory committee, including the deputy executive administrator of the board who is responsible for water science and conservation, or a person designated by that deputy executive administrator, the deputy executive administrator of the board who is responsible for water resources planning and information, or a person designated by that deputy executive administrator, and the chief financial officer of the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that an appointed member of the advisory committee serves at the will of the person who appointed the member, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the lieutenant governor shall appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor, and the speaker of the house of representatives shall appoint a co-presiding officer of the committee from among the members appointed by the speaker, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the advisory committee may hold public hearings, formal meetings, or work sessions, that either co-presiding officer of the advisory committee may call a public hearing, formal meeting, or work session of the advisory committee at any time, and that the advisory committee may not take formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that a member of the advisory committee is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that the advisory committee shall submit comments and recommendations to the board regarding the use of money in the fund for use by the board in adopting rules under Section 15.440, whereas the original stated that the advisory committee shall submit recommendations to the board regarding the use of money in the fund for use by the board in adopting rules under Section 15.436.

C.S.H.B. 4 differs from the original by providing a provision stating that the submission must include comments and recommendations on rulemaking related to the prioritization of projects in regional water plans and the state water plan in accordance with Sections 15.437 and 15.438; comments and recommendations on rulemaking related to establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); an evaluation of the available programs for providing financing for projects included in the state water plan and guidelines for

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implementing those programs, including guidelines for providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17; an evaluation of the lending practices of the board and guidelines for lending standards; an evaluation of the use of funds by the board to provide support for financial assistance for water projects, including support for the purposes described by Section 15.435(c); an evaluation of whether premium financing programs should be established within the funds described by Section 15.435 to serve the purposes of this subchapter, especially in connection with projects described by Section 15.434(b); an evaluation of methods of awarding contracts that may be more effective than competitive bidding in promoting competitive procurements and encouraging participation in the procurement process by companies domiciled in this state; and an evaluation of the overall operation, function, and structure of the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the advisory committee shall review the overall operation, function, and structure of the fund at least semiannually and may provide comments and recommendations to the board on any matter, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the advisory committee may adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the advisory committee is subject to Chapter 325, Government Code (Texas Sunset Act), and that unless continued in existence as provided by that chapter, the advisory committee is abolished and this section expires September 1, 2023, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that the board shall adopt rules providing for the use of money in the fund that are consistent with this subchapter, including rules establishing standards for determining whether projects meet the criteria provided by Section 15.434(b), and specifying the manner for prioritizing projects for purposes of Section 15.438, and that the board shall give full consideration to the recommendations of the advisory committee before adopting rules under this subchapter, whereas the original stated that the board shall adopt rules providing for the use of money in the fund consistent with this subchapter, including rules establishing standards for the eligibility of water conservation and reuse and education projects for financing under Sections 15.433(a) and (b), and specifying the manner for prioritizing projects for purposes of Section 15.433(c), and that the board shall give appropriate consideration to the recommendations of the advisory committee before adopting rules under this section.

C.S.H.B. 4 differs from the original by providing a provision stating that not later than December 1 of each even-numbered year, the board shall provide a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature regarding the use of the fund, including the use of the fund to satisfy the requirements of Section 15.434(b), whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by adding a new subchapter, Subchapter H, to Chapter 15 of the Water Code, entitled State Water Implementation Revenue Fund for Texas, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that, for the purposes of Subchapter H, fund means the state water implementation revenue fund for Texas, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the state water

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implementation revenue fund for Texas is a special fund outside the state treasury to be used by the board, without further legislative appropriation, for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, that the board may establish separate accounts in the fund, and that the board has legal title to money and investments in the fund until the money is disbursed as provided by this subchapter and board rules, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that money deposited to the credit of the fund may be used only as provided by this subchapter, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the fund consists of money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the board's discretion as authorized by law; the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund; any other revenue that the legislature by statute dedicates for deposit to the credit of the fund; investment earnings and interest earned on amounts credited to the fund; and the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the board for the purpose of providing money for the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that money deposited to the credit of the fund shall be invested as determined by the board, and that the fund may be co-invested with the state treasury pool, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the fund and any accounts established in the fund shall be kept and maintained by or at the direction of the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that at the direction of the board, the fund and any accounts established in the fund may be kept and held in escrow and in trust by the comptroller for and on behalf of the board and pending their use for the purposes provided by this subchapter may be invested as provided by an order, resolution, or rule of the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the comptroller, as custodian, shall administer the fund in strict accordance with this subchapter and the orders, resolutions, and rules of the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that except as provided by Subsection (c), money in the fund may be used by the board only to provide financing or refinancing, under terms specified by the board, for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17, including water conservation or reuse projects designed to reduce the need for this state or political subdivisions of this state to develop additional water resources, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that financing or refinancing of projects described by Subsection (a) may be provided by using money in the fund to make loans to fund participants or to purchase bonds or other obligations of fund participants bearing interest at a rate or rates determined by the board, including rates below prevailing market rates; or guarantee debt service payments on obligations of fund participants, or to purchase insurance guaranteeing such payments, if the board determines that the guarantee or purchase will either improve access to the credit market, reduce the interest cost of the obligations, or enhance the value of the assets of the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may use

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money in the fund either as a source of revenue or security for the payment of the principal of and interest on revenue bonds issued by the board under this subchapter or other bonds issued by the board if the proceeds of the bonds will be deposited in the fund, or to pay the necessary and reasonable expenses of paying agents, bond counsel, and financial advisory services and similar costs incurred by the board in administering the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may direct the comptroller to transfer amounts, under terms specified by the board, from the fund to the credit of the water infrastructure fund to be used under Subchapter Q for the purposes provided by Section 15.434 related to projects included in the state water plan; the rural water assistance fund to be used under Subchapter R for the purposes provided by Section 15.434 related to projects included in the state water plan; the Texas Water Development Fund II state participation account to be used under Subchapter E or F, Chapter 16, for the purposes provided by Section 15.434 related to projects included in the state water plan; or the agricultural water conservation fund to be used under Subchapter J, Chapter 17, for the purposes provided by Section 15.434 related to projects included in the state water plan, whereas the original stated that the board may direct the comptroller to transfer amounts from the fund to the credit of the water infrastructure fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter Q, the rural water assistance fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter R, the Texas Water Development Fund II state participation account to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter E, Chapter 16, the agricultural water conservation fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter J, Chapter 17, or the Texas Water Development Fund II economically distressed areas program account to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter K, Chapter 17.

C.S.H.B. 4 differs from the original by providing a provision stating that, if the comptroller transfers an amount from the fund to the credit of another fund or account as provided by this section, the board may direct the comptroller to transfer an amount from the other fund or account to the fund if money is available in the other fund or account for that purpose, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may issue revenue bonds for the purpose of providing money for the fund, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may issue revenue bonds to refund revenue bonds or bonds and obligations issued or incurred in accordance with other provisions of law, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that revenue bonds issued under this subchapter are special obligations of the board payable from and secured by designated income and receipts of the fund, including principal of and interest paid and to be paid on fund assets or income from accounts created within the fund by the board, as determined by the board, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that revenue bonds issued under this subchapter do not constitute indebtedness of the state as prohibited by the constitution, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may require fund participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations, whereas the original did not contain this provision.

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C.S.H.B. 4 differs from the original by providing a provision stating that revenue bonds issued under this subchapter must be authorized by resolution of the board and must have the form and characteristics and bear the designations as the resolution provides, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that revenue bonds issued under this subchapter may bear interest at the rate or rates payable annually or otherwise; be dated; mature at the time or times, serially, as term revenue bonds, or otherwise in not more than 50 years from their dates; be callable before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided by the resolution; be issued in temporary or permanent form; be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable; and be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this subchapter or may be issued without parity and secured differently than other revenue bonds, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that all proceedings relating to the issuance of revenue bonds issued under this subchapter shall be submitted to the attorney general for examination, that if the attorney general finds that the revenue bonds have been authorized in accordance with law, the attorney general shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller, and that after the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the proceeds received from the sale of revenue bonds issued under this subchapter may be deposited or invested in any manner and in the obligations as may be specified in the resolution or other proceedings authorizing those obligations, and that money in the fund or accounts created by this subchapter or created in the resolution or other proceedings authorizing the revenue bonds may be invested in any manner and in any obligations as may be specified in the resolution or other proceedings, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that, in Section 15.973(b), Water Code, the fund consists of, in addition to existing law, money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434, whereas the original stated that, in addition to existing law, the fund consists of money transferred from the state water implementation fund for Texas as authorized by Section 15.434.

C.S.H.B. 4 differs from the original by providing a provision stating that, in Section 15.974, Water Code, the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.973(b)(9) if the requirements of Section 15.435 are satisfied, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that, in Section 15.993, Water Code, the fund consists of, in addition to existing law, money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434, whereas the original stated that, in addition to existing law, the money in the fund consisted of money transferred from the state water implementation fund for Texas as authorized by Section 15.434.

C.S.H.B. 4 differs from the original by providing a provision stating that, in Section 15.994, Water Code, the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 15.993(7) if the requirements of Section

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15.435 are satisfied, whereas the original did not contain this provision.

C.S.H.B 4 differs from the original by providing a provision stating that the governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project, in addition to existing law, that payment of the retainage remaining due upon completion of the contract shall be made only after, in addition to existing law, certification by the executive administrator in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications, and not in accordance with sound engineering principles and practices, and that plans and specifications submitted to the board in connection with an application for financial assistance must include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board may inspect the construction of a project at any time to assure that the contractor is substantially complying with the approved engineering plans and specifications of the project, and not that the contractor is constructing the project in accordance with sound engineering principles, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the executive administrator may consider certain considerations as grounds for refusal to give a certificate of approval for any construction contract, including failure to construct the project according to approved plans and specifications or failure to comply with any term of the contract, but not for a failure to construct the works in accordance with sound engineering principles, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided for treatment works and the amount of any such assistance, and not in consultation with and pursuant to agreement with the political subdivision, except as provided by Subsection (d) of Section 17.276(c), the board shall determine the location, time, design, scope, and all other aspects of the construction of a sewerage system for which financial assistance is provided, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that the board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided and the amount of any such assistance, but not in consultation with and pursuant to agreement with the political subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction to be performed, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by stating that, under Section 17.895, Water Code, the fund is composed of, in addition to existing law, money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434, whereas the original stated that the fund is composed of, in addition to existing law, money transferred from the state water implementation fund for Texas as authorized by Section 15.434.

C.S.H.B. 4 differs from the original by providing a provision stating that, under Section 17.899, Water Code, that the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Section 17.895(6) if the requirements of Section 15.435 are satisfied, whereas the original did not contain this provision.

C.S.H.B. 4 parallels the original by providing a provision stating that, under Section 17.957, Water Code, the state participation account is composed of, in addition to existing law, money transferred from the state water implementation fund for Texas as authorized by Section 15.434, Water Code. Makes nonsubstantive changes.

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C.S.H.B. 4 differs from the original by providing a provision stating that, under Section 17.957, Water Code, the board shall transfer back to the state water implementation fund for Texas any money disbursed to the fund as described by Subsection (b)(5), Section 15.957, if the requirements of Section 15.435 are satisfied, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by removing a provision stating that, under Section 17.958(b), Water Code, the economically distressed areas program account is composed of, in addition to existing law, money transferred from the state water implementation fund for Texas as authorized by Section 15.434, whereas the substitute does not contain this provision.

C.S.H.B. 4 differs from the original by stating that, as soon as practicable after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the initial appointive members of the State Water Implementation Fund for Texas Advisory Committee as provided by Section 15.439, Water Code, as added by this Act, whereas the original stated that as soon as practicable after the effective date of this Act, the speaker of the house of representatives, the lieutenant governor, and the governor shall appoint the initial members of the State Water Implementation Fund for Texas Advisory Committee created under Section 15.435, Water Code, as added by this Act.

C.S.H.B. 4 differs from the original by stating that not later than September 1, 2014, the State Water Implementation Fund for Texas Advisory Committee shall submit recommendations to the Texas Water Development Board on the rules to be adopted by the board under Sections 15.440(a)(1) and (2), Water Code, as added by this Act, and that not later than the later of the 90th day after the date the Texas Water Development Board receives the recommendations described by Subsection (a) of this section or March 1, 2015, the board shall adopt rules under Section 15.440, Water Code, as added by this Act, whereas the original states that not later than December 1, 2013, the Texas Water Development Board shall adopt rules under Section 15.436, Water Code, as added by this Act.

C.S.H.B. 4 differs from the original by providing a provision stating that each regional water planning group that has not previously provided the information to the Texas Water Development Board described by Section 16.053(q), Water Code, shall provide the information not later than September 1, 2014, and that Section 15.435(h), Water Code, as added by this Act, applies to a regional water plan beginning with the plan that is required to be submitted to the Texas Water Development Board by January 5, 2016, whereas the original did not contain this provision.

C.S.H.B. 4 differs from the original by providing a provision stating that each regional water planning group shall prioritize the projects included in the regional water plan most recently adopted by the group in accordance with Section 15.437, Water Code, as added by this Act, and submit the prioritization of the projects to the Texas Water Development Board not later than September 1, 2014, and that Section 15.437(d), Water Code, as added by this Act, applies to a regional water plan beginning with the plan that is required to be submitted to the Texas Water Development Board by January 5, 2016, whereas the original did not contain this provision.

C.S.H.B. 4 parallels the original by providing a provision stating that this Act takes effect September 1, 2013.