

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB4** by Ritter (Relating to the funding of certain water-related projects by the Texas Water Development Board; authorizing the issuance of revenue bonds.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would establish the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT), each as a special fund outside the State Treasury, administered by the Texas Water Development Board (TWDB) without further legislative appropriations. The funds may be used for payment and security for bonds, the proceeds of which may be used through the SWIRFT, the Water Infrastructure Fund (WIF), the Rural Water Assistance Fund (RWAFF), the State Participation Account in Texas Water Development Fund II, and the Agricultural Water Conservation Fund to support state water plan projects.

The SWIFT would be held for the TWDB by the Texas Treasury Safekeeping Trust Company (TTSTC), a division of the Comptroller of Public Accounts. The fund would consist of money transferred or deposited to the fund by law; the proceeds of any fee or tax imposed by the state; other revenue dedicated by the Legislature to the fund; investment and interest earned on the balance of the fund; and certain money transferred to the fund under a bond enhancement agreement (BEA) from another fund or account. The TTSTC may charge fees consistent with other fees it charges for investment management services and provide a written report on the investment of the fund and adopt a written investment policy. This provision of the bill is anticipated to be absorbed within the earnings of the new fund and therefore not have any significant fiscal implications. The fund may be used at the direction of the TWDB, through a BEA with the TTSTC, as a source of revenue and security for the support of general obligation bonds or revenue bonds to finance projects in the state water plan through funds and accounts authorized in the bill. Prior to the adoption of a new state water plan, of the money disbursed from the SWIFT, the bill would require TWDB to apply not less than 10 percent to support projects designed to serve rural areas, and 20 percent to support water conservation or reuse projects.

A BEA may also be entered into with respect to not self-supporting bonds issued before September 1, 2013. Not self-supporting general obligation water bonds are those for which General Revenue is appropriated to pay debt service requirements. The TWDB has indicated that General Revenue appropriations for existing not self-supporting bonds may not be necessary in fiscal year 2015 or subsequent years depending on when assets became available and when the BEA is effective. However, the potential savings to the General Revenue Fund from this provision cannot be determined at this time. Under bill provisions, the TWDB may not approve a BEA with respect to bond issues unless the agreement contains a provision to the effect that if the TTSTC

makes a disbursement under the BEA from the fund to the credit of another fund or account, the board shall direct the Comptroller of Public Accounts 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.

The SWIRFT would consist of money transferred or deposited to the fund by law; the proceeds of any fee or tax imposed by the state; other revenue dedicated by the Legislature to the fund; investment and interest earned on the balance of the fund; and the proceeds from the sale of certain bonds. The SWIRFT may also consist of money disbursed to the SWIRFT from the SWIFT under a BEA. SWIRFT money may be used to provide financing for projects included in the state water plan, which may include using money in the fund as a source of revenue or security for the payment of principal and interest on bonds or a BEA. TWDB may issue revenue bonds for the purpose of providing money for the fund. The SWIRFT may be used to make loans to fund participants, purchase participant bonds or other obligations, guarantee debt service payments and purchase insurance. At the direction of TWDB, the SWIRFT may be held by either the Comptroller or a corporate trustee that is a trust company or a bank with the powers of a trust company.

The bill would require that regional water planning groups prioritize projects and submit prioritizations to the TWDB. The TWDB must also prioritize state water plan projects for the purpose of providing financial assistance.

The bill would also create the SWIFT Advisory Committee consisting of seven members. By September 1, 2014, the Committee shall submit comments and recommendations to the TWDB regarding the prioritization of projects, rulemaking, and an evaluation related to the financing of state water plan projects and other provisions as described in the bill. The Committee would also be required to evaluate the EDAP Account for funding state water plan projects, and recommend to the TWDB a dollar amount to set aside, if investment income is adequate and the Committee finds it to be appropriate. If the TWDB accepts the recommendation, the TWDB may use the SWIFT to support EDAP projects, including grants. The Committee sunsets September 1, 2023, unless reauthorized. The bill would require the TWDB to adopt rules providing for the use of money in the SWIFT, including criteria for project funding and the manner for prioritizing projects. Rulemaking would occur not later than the 90th day after TWDB receives recommendations from the Committee, or by March 1, 2015.

The bill would require that the TWDB provide a biennial report to the Governor, Lieutenant Governor, Speaker of the House, and members of the Legislature regarding the use of the SWIFT, including projects for rural areas, conservation, and reuse. The bill amends sections of the Texas Water Code relating to engineering plans and practices and removes the TWDB's duty to determine certain specifics of the construction to be performed for wastewater and flood control projects.

Although this bill would not make an appropriation, it would establish the basis for an appropriation. Depending on the ultimate disposition of the funds, there could be a need for additional program administration funding. According to TWDB, additional appropriations for program administration would be required if project financing were to exceed \$250 million per year. The bill, in and of itself, would have no fiscal impact with regard to funds deposited to the funds created outside the state treasury. However, any eventual amounts provided to capitalize the funds would have a fiscal impact. The fiscal impact of any funds potentially transferred back into the treasury cannot be estimated.

The Office of the Attorney General anticipates that any additional workload as a result of the passage of this bill could be reasonably absorbed with current resources. According to the Bond Review Board, bonds issued and BEAs created as a result of passage of this bill would be self-supporting debt and would not have a fiscal impact nor require a pledge of state resources. The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

The bill would provide local entities with subsidized financing for projects eligible for TWDB funding.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 352 Bond Review Board, 580 Water Development Board

**LBB Staff:** UP, TB, SZ, ZS, PM