

SENATE AMENDMENTS

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H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the funding of certain water-related projects by the
3 Texas Water Development Board; authorizing the issuance of revenue
4 bonds.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. (a) The legislature recognizes the importance
7 of providing for this state's future water supply needs. The
8 purpose of this Act is to ensure that proper funding in the form of
9 meaningful and adequate financial assistance is available to
10 provide an adequate water supply for the future of this state.

11 (b) To accomplish that purpose, this Act creates the state
12 water implementation fund for Texas. The fund is intended to serve
13 as a water infrastructure bank in order to enhance the financing
14 capabilities of the Texas Water Development Board under
15 constitutionally created programs and revenue bond programs. The
16 fund provides a source of revenue or security for those programs and
17 provides a revolving cash flow mechanism that recycles money used
18 in board programs back to the fund to provide protection for the
19 fund's corpus. Money in the fund will be available immediately to
20 provide support for low-interest loans, longer repayment terms for
21 loans, incremental repurchase terms for projects in which the state
22 owns an interest, and deferral of loan payments. In addition, this
23 Act creates the state water implementation revenue fund for Texas
24 for use in managing revenue bonds issued by the board that are

1 supported by the state water implementation fund for Texas.

2 SECTION 2. Chapter 15, Water Code, is amended by adding
3 Subchapters G and H to read as follows:

4 SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

5 Sec. 15.431. DEFINITIONS. In this subchapter:

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

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

10 (3) "Historically underutilized business" has the
11 meaning assigned by Section 2161.001, Government Code.

12 (4) "Trust company" means the Texas Treasury
13 Safekeeping Trust Company.

14 Sec. 15.432. FUND. (a) The state water implementation fund
15 for Texas is a special fund outside the state treasury to be used by
16 the board, without further legislative appropriation, for the
17 purpose of implementing the state water plan as provided by this
18 subchapter. The board may establish separate accounts in the fund.
19 The fund and the fund's accounts are kept and held by the trust
20 company for and in the name of the board. The board has legal title
21 to money and investments in the fund until money is disbursed from
22 the fund as provided by this subchapter and board rules. It is the
23 intent of the legislature that the fund remain outside the state
24 treasury in perpetuity and that the fund will never be used:

25 (1) for a purpose other than the support of projects in
26 the state water plan; or

27 (2) to certify appropriations from the treasury are

1 within the amount estimated to be available in a fund of the
2 treasury affected by the appropriation.

3 (b) Money deposited to the credit of the fund may be used
4 only as provided by this subchapter.

5 (c) The fund consists of:

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

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

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

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

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

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

26 (b) The overall objective for the investment of the fund is
27 to maintain sufficient liquidity to meet the needs of the fund while

1 striving to preserve the purchasing power of the fund.

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

13 (d) The trust company may charge fees to cover its costs
14 incurred in managing and investing the fund. The fees must be
15 consistent with the fees the trust company charges other state and
16 local governmental entities for which it provides investment
17 management services. The trust company may recover fees it charges
18 under this subsection only from the earnings of the fund.

19 (e) The trust company annually shall provide a written
20 report to the board and to the advisory committee with respect to
21 the investment of the fund. The trust company shall contract with a
22 certified public accountant to conduct an independent audit of the
23 fund annually and shall present the results of each annual audit to
24 the board and to the advisory committee. This subsection does not
25 affect the state auditor's authority to conduct an audit of the fund
26 under Chapter 321, Government Code.

27 (f) The trust company shall adopt a written investment

1 policy that is appropriate for the fund. The trust company shall
2 present the investment policy to the investment advisory board
3 established under Section 404.028, Government Code. The investment
4 advisory board shall submit to the trust company recommendations
5 regarding the policy.

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

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

15 (i) An investment-related contract entered into under this
16 section is not subject to Chapter 2260, Government Code.

17 (j) The trust company must publicly post required
18 disclosure of political contributions, placement agents, and fees
19 for the fund on its website in a timely fashion.

20 Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
21 OR ACCOUNTS. (a) At the direction of the board, the trust company
22 shall make disbursements from the fund to another fund or account
23 pursuant to a bond enhancement agreement authorized by Section
24 15.435 in the amounts the board determines are needed for debt
25 service payments on or security provisions of the board's general
26 obligation bonds or revenue bonds, after considering all other
27 sources available for those purposes in the respective fund or

1 account.

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

6 (1) 10 percent to support projects included in the
7 state water plan that are designed to serve rural areas; and

8 (2) 20 percent to support projects included in the
9 state water plan that are for water conservation or reuse.

10 (c) The board shall undertake to use money from the fund to
11 provide financing to projects that prioritize using historically
12 underutilized businesses in compliance with statewide annual goals
13 adopted under Chapter 2161, Government Code. Projects that receive
14 financing may satisfy the statewide annual goals by contracting
15 directly or indirectly through subcontracts with historically
16 underutilized businesses.

17 Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond
18 enhancement agreement entered into under this section is an
19 agreement for professional services. A bond enhancement agreement
20 must contain terms that are consistent with Section 15.433(h), and
21 the agreement, including the period covered by the agreement and
22 all other terms and conditions of the agreement, must be approved by
23 the board. An obligation to disburse money from the fund in
24 accordance with a bond enhancement agreement is a special
25 obligation of the board payable solely from designated income and
26 receipts of the fund or an account in the fund established by the
27 board, as determined by the board. An obligation to disburse money

1 from the fund in accordance with a bond enhancement agreement does
2 not constitute indebtedness of the state.

3 (b) To facilitate the use of the fund for the purposes of
4 this subchapter, the board may direct the trust company to enter
5 into bond enhancement agreements to provide a source of revenue or
6 security for the payment of the principal of and interest on general
7 obligation bonds, including bonds issued under Section 49-d-9 or
8 49-d-11, Article III, Texas Constitution, or revenue bonds issued
9 by the board to finance or refinance projects included in the state
10 water plan if the proceeds of the sale of the bonds have been or will
11 be deposited to the credit of:

12 (1) the state water implementation revenue fund for
13 Texas;

14 (2) the water infrastructure fund;

15 (3) the rural water assistance fund;

16 (4) the Texas Water Development Fund II state
17 participation account; or

18 (5) the agricultural water conservation fund.

19 (c) If the trust company enters into a bond enhancement
20 agreement under Subsection (b), the board may direct the trust
21 company to make disbursements from the fund to another fund or
22 account for the support of bonds the proceeds of which are used to
23 provide financial assistance in the form of:

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

27 (2) a loan to finance a facility under repayment terms

1 similar to the terms of debt customarily issued by the entity
2 requesting assistance but not to exceed the lesser of:

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

4 (B) 30 years;

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

7 (A) principal and interest; or

8 (B) accrued interest;

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

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

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

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

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

26 (3) general revenue of the state was appropriated
27 before September 1, 2013, for the payment of debt service on those

1 bonds.

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

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

12 (g) The board may not direct the trust company to enter into
13 a bond enhancement agreement with respect to bonds issued by the
14 board the proceeds of which may be used to provide financial
15 assistance to an applicant if at the time of the request the
16 applicant has failed to:

17 (1) submit or implement a water conservation plan in
18 accordance with Section 11.1271; or

19 (2) satisfactorily complete a request by the executive
20 administrator or a regional water planning group for information
21 relevant to the project for which the financial assistance is
22 sought, including a water infrastructure financing survey under
23 Section 16.053(q).

24 (h) The board may not direct the trust company to enter into
25 a bond enhancement agreement with respect to bonds issued by the
26 board the proceeds of which may be used to provide financial
27 assistance to an applicant unless at the time of the request the

1 applicant is in compliance with any applicable requirements of:

2 (1) federal law relating to contracting with
3 disadvantaged business enterprises; and

4 (2) state law relating to contracting with
5 historically underutilized businesses.

6 (i) The board may not approve a bond enhancement agreement
7 with respect to bonds issued by the board unless the agreement
8 contains a provision to the effect that if the trust company makes a
9 disbursement under the bond enhancement agreement from the fund to
10 the credit of another fund or account as provided by Section
11 15.434(a), the board shall direct the comptroller to transfer an
12 amount not to exceed that amount from the fund or account receiving
13 the payment back to the fund if:

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

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

20 (j) For purposes of Subsection (i)(1), the surplus balance
21 of a fund or account that receives a disbursement from the fund
22 under a bond enhancement agreement is the amount of money on deposit
23 in the fund or account, as determined by the board, that is
24 attributable to the general obligation bonds or revenue bonds that
25 are the subject of the bond enhancement agreement, including money
26 received from the sale or other disposition of the board's rights to
27 receive repayment of financial assistance, money received from the

1 sale, transfer, or lease of an acquired facility, money received
2 from the sale of water associated with an acquired facility, and
3 related investment earnings, that exceeds the amount required to
4 pay debt service on the bonds and any other amounts specified in the
5 resolution or other proceedings authorizing the bonds and any
6 related obligations, as those payments are due and owing.

7 (k) The board shall submit each bond enhancement agreement
8 and the record relating to the agreement to the attorney general for
9 examination as to the validity of the agreement. If the attorney
10 general finds that the agreement has been made in accordance with
11 the constitution and other laws of this state, the attorney general
12 shall approve the agreement and the comptroller shall register the
13 agreement.

14 (l) After a bond enhancement agreement has been approved and
15 registered as provided by Subsection (k), the agreement is valid
16 and is incontestable for any cause.

17 Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER
18 PLANNING GROUPS. (a) Each regional water planning group shall
19 prioritize projects in its respective regional water planning area
20 for the purposes of Section 15.435. At a minimum, a regional water
21 planning group must consider the following criteria in prioritizing
22 each project:

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

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

27 (3) the viability of the project, including whether

1 the project is a comprehensive solution with a measurable outcome;

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

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

7 (b) In prioritizing projects, each regional water planning
8 group shall include projects that meet long-term needs as well as
9 projects that meet short-term needs.

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

19 (d) Each regional water planning group shall submit to the
20 board the prioritization developed by the group under this section
21 together with the group's respective regional water plan developed
22 and submitted under Section 16.053.

23 Sec. 15.437. PRIORITIZATION OF PROJECTS BY BOARD. (a) The
24 board shall prioritize projects included in the state water plan
25 for the purpose of providing financial assistance under this
26 subchapter.

27 (b) The board shall establish a point system for

1 prioritizing projects for which financial assistance is sought from
2 the board. The system must include a standard for the board to
3 apply in determining whether a project qualifies for financial
4 assistance at the time the application for financial assistance is
5 filed with the board.

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

9 (1) serve a large population;

10 (2) provide assistance to a diverse urban and rural
11 population;

12 (3) provide regionalization; or

13 (4) meet a high percentage of the water supply needs of
14 the water users to be served by the project.

15 (d) In addition to the criteria provided by Subsection (c),
16 the board must also consider at least the following criteria in
17 prioritizing projects:

18 (1) the local contribution to be made to finance the
19 project, including the up-front capital to be provided by the
20 applicant;

21 (2) the financial capacity of the applicant to repay
22 the financial assistance provided;

23 (3) the ability of the board and the applicant to
24 timely leverage state financing with local and federal funding;

25 (4) whether there is an emergency need for the
26 project, taking into consideration whether:

27 (A) the applicant is included at the time of the

1 application on the list maintained by the commission of local
2 public water systems that have a water supply that will last less
3 than 180 days without additional rainfall; and

4 (B) federal funding for which the project is
5 eligible has been used or sought;

6 (5) if the applicant is applying for financial
7 assistance for the project under Subchapter Q, whether the
8 applicant is ready to proceed with the project at the time of the
9 application, including whether:

10 (A) all preliminary planning and design work
11 associated with the project has been completed;

12 (B) the applicant has acquired the water rights
13 associated with the project;

14 (C) the applicant has secured funding for the
15 project from other sources; and

16 (D) the applicant is able to begin implementing
17 or constructing the project;

18 (6) the demonstrated or projected effect of the
19 project on water conservation, including preventing the loss of
20 water, taking into consideration, if applicable, whether the
21 applicant has filed a water audit with the board under Section
22 16.0121 that demonstrates that the applicant is accountable with
23 regard to reducing water loss and increasing efficiency in the
24 distribution of water; and

25 (7) the priority given the project by the applicable
26 regional water planning group under Section 15.436.

27 Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water

1 Implementation Fund for Texas Advisory Committee is composed of the
2 following seven members:

3 (1) the comptroller, or a person designated by the
4 comptroller;

5 (2) three members of the senate appointed by the
6 lieutenant governor, including:

7 (A) a member of the committee of the senate
8 having primary jurisdiction over matters relating to finance; and

9 (B) a member of the committee of the senate
10 having primary jurisdiction over natural resources; and

11 (3) three members of the house of representatives
12 appointed by the speaker of the house of representatives,
13 including:

14 (A) a member of the committee of the house of
15 representatives having primary jurisdiction over appropriations;
16 and

17 (B) a member of the committee of the house of
18 representatives having primary jurisdiction over natural
19 resources.

20 (b) The following persons shall serve as staff support for
21 the advisory committee:

22 (1) the deputy executive administrator of the board
23 who is responsible for water science and conservation or a person
24 who holds an equivalent position at the agency, or a person
25 designated by that person;

26 (2) the deputy executive administrator of the board
27 who is responsible for water resources planning and information or

1 a person who holds an equivalent position at the agency, or a person
2 designated by that person; and

3 (3) the chief financial officer of the board, or a
4 person who holds an equivalent position at the agency.

5 (c) An appointed member of the advisory committee serves at
6 the will of the person who appointed the member.

7 (d) The lieutenant governor shall appoint a co-presiding
8 officer of the advisory committee from among the members appointed
9 by the lieutenant governor, and the speaker of the house of
10 representatives shall appoint a co-presiding officer of the
11 committee from among the members appointed by the speaker.

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

19 (f) Except as otherwise provided by this subsection, a
20 member of the advisory committee is not entitled to receive
21 compensation for service on the committee or reimbursement for
22 expenses incurred in the performance of official duties as a member
23 of the committee. Service on the advisory committee by a member of
24 the senate or house of representatives is considered legislative
25 service for which the member is entitled to reimbursement and other
26 benefits in the same manner and to the same extent as for other
27 legislative service.

1 (g) The advisory committee shall submit comments and
2 recommendations to the board regarding the use of money in the fund
3 for use by the board in adopting rules under Section 15.439. The
4 submission must include:

5 (1) comments and recommendations on rulemaking
6 related to the prioritization of projects in regional water plans
7 and the state water plan in accordance with Sections 15.436 and
8 15.437;

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

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

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

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

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

27 (7) an evaluation of methods for encouraging

1 participation in the procurement process by companies domiciled in
2 this state;

3 (8) an evaluation of the overall operation, function,
4 and structure of the fund; and

5 (9) an evaluation of the Texas Water Development Fund
6 II economically distressed areas program account, and whether
7 funding should be provided to finance projects included in the
8 state water plan as authorized under Subchapter K, Chapter 17.

9 (g-1) The advisory committee shall make a recommendation to
10 the board to set aside a dollar amount in the fund to provide
11 financing under Subsection (g)(9) if:

12 (1) the investment income of the fund, including
13 earnings and interest, exceeds an amount equal to the rate of
14 inflation plus five percent (hurdle rate) in a state fiscal year;
15 and

16 (2) the advisory committee finds it appropriate to use
17 for the purpose provided by Subsection (g)(9) an amount of money in
18 the fund equal to not more than one-half of the portion of that
19 income plus capital appreciation (total return), where both the
20 total return and hurdle rate are calculated on a 12 calendar quarter
21 rolling average basis.

22 (g-2) Notwithstanding the other provisions of this
23 subchapter, if the board accepts the recommendation of the advisory
24 committee under Subsection (g-1), the board may direct the trust
25 company to use an amount of money not to exceed the amount provided
26 by Subsection (g-1)(2) for the purposes of bond enhancement
27 agreements to provide a source of revenue or security for the

1 payment of the principal of and interest on general obligation
2 bonds or revenue bonds issued by the board to finance or refinance
3 projects included in the state water plan the proceeds of the sale
4 of which have been or will be deposited to the credit of the
5 economically distressed program account. The limitation provided
6 by Section 15.435(f) does not apply to a bond enhancement agreement
7 authorized under this subsection.

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

12 (i) The advisory committee shall adopt rules, procedures,
13 and policies as needed to administer this section and implement its
14 responsibilities, including rules to:

15 (1) ensure compliance with statewide annual goals
16 relating to historically underutilized businesses; and

17 (2) require that the advisory committee report to the
18 executive director at least annually regarding the participation
19 level of historically underutilized businesses in projects in the
20 state water plan that receive funding related to a bond enhancement
21 agreement under this subchapter.

22 (i-1) If the level of participation by historically
23 underutilized businesses in projects in the state water plan that
24 receive funding related to a bond enhancement agreement under this
25 subchapter does not meet statewide annual goals adopted under
26 Chapter 2161, Government Code, the advisory committee shall make
27 recommendations to the board to improve the participation level.

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

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

7 (l) The advisory committee shall make recommendations to
8 the board regarding information to be posted on the board's
9 Internet website under Section 15.440(b).

10 Sec. 15.439. RULES. (a) The board shall adopt rules
11 providing for the use of money in the fund that are consistent with
12 this subchapter, including rules:

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

15 (2) specifying the manner for prioritizing projects
16 for purposes of Section 15.437.

17 (b) The board shall give full consideration to the
18 recommendations of the advisory committee before adopting rules
19 under this subchapter.

20 (c) Rules adopted under Subsection (a)(2) must provide for
21 giving a higher priority to projects that will:

22 (1) comply with rules relating to historically
23 underutilized businesses; and

24 (2) create significant opportunities for historically
25 underutilized businesses.

26 Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
27 Not later than December 1 of each even-numbered year, the board

1 shall provide a report to the governor, lieutenant governor,
2 speaker of the house of representatives, and members of the
3 legislature regarding the use of the fund, including the use of the
4 fund to support projects that are designed to serve rural areas or
5 that are for water conservation or reuse as required by Section
6 15.434(b).

7 (b) The board shall post the following information on the
8 board's Internet website regarding the use of the fund and
9 regularly update the information posted:

10 (1) the progress made in developing needed water
11 supply statewide and for the benefit of each regional water
12 planning area;

13 (2) for each regional water planning area, a
14 description of each project funded through bonds supported by a
15 bond enhancement agreement entered into under Section 15.435,
16 including:

17 (A) the amount of bonds issued and the terms of
18 the bonds;

19 (B) a summary of the terms of the bond
20 enhancement agreement;

21 (C) the status of repayment of any loan provided
22 in connection with the project, including an assessment of the risk
23 of default based on a standard risk rating system;

24 (D) the check register for the project;

25 (E) the expected date of completion of the
26 project; and

27 (F) the current status of the project;

1 (3) a description of the investment portfolio of the
2 fund;

3 (4) the expenses incurred in investing money in the
4 fund;

5 (5) the rate of return on the investment of money in
6 the fund;

7 (6) a description of the point system for prioritizing
8 projects established as well as the points awarded for each funded
9 project by the board under Section 15.437(b);

10 (7) any nonconfidential application information
11 submitted on approved projects for funding by the board;

12 (8) the administrative and operating expenses
13 incurred by the board in developing the state water plan and
14 providing financial assistance for projects included in the plan;
15 and

16 (9) any other information required by board rule.

17 SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

18 Sec. 15.471. DEFINITION. In this subchapter, "fund" means
19 the state water implementation revenue fund for Texas.

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

1 is disbursed as provided by this subchapter and board rules. It is
2 the intent of the legislature that the fund remain outside the state
3 treasury in perpetuity and that the fund will never be used:

4 (1) for a purpose other than the support of projects in
5 the state water plan; or

6 (2) to certify appropriations from the treasury are
7 within the amount estimated to be available in a fund of the
8 treasury affected by the appropriation.

9 (b) Money deposited to the credit of the fund may be used
10 only as provided by this subchapter.

11 (c) The fund consists of:

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

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

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

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

23 (5) the proceeds from the sale of bonds, including
24 revenue bonds issued by the board under this subchapter, that are
25 designated by the board for the purpose of providing money for the
26 fund; and

27 (6) money disbursed to the fund from the state water

1 implementation fund for Texas as authorized by Section 15.434.

2 Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Money
3 deposited to the credit of the fund shall be invested as determined
4 by the board. The fund may be co-invested with the state treasury
5 pool.

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

8 (c) At the direction of the board, the fund and any accounts
9 established in the fund may be kept and held by the comptroller or a
10 corporate trustee that is a trust company or a bank that has the
11 powers of a trust company for and on behalf of the board and pending
12 their use for the purposes provided by this subchapter may be
13 invested as provided by an order, resolution, or rule of the board.

14 (d) The comptroller or corporate trustee, as custodian,
15 shall administer the fund in strict accordance with this subchapter
16 and the orders, resolutions, and rules of the board.

17 Sec. 15.474. USE OF FUND. (a) Except as provided by
18 Subsection (c), money in the fund may be used by the board only to
19 provide financing or refinancing, under terms specified by the
20 board, for projects included in the state water plan that are
21 authorized under Subchapter Q or R of this chapter, Subchapter E or
22 F, Chapter 16, or Subchapter J, Chapter 17, including water
23 conservation or reuse projects designed to reduce the need for this
24 state or political subdivisions of this state to develop additional
25 water resources.

26 (b) Financing or refinancing of projects described by
27 Subsection (a) may be provided by using money in the fund to:

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

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

9 (A) improve access to the credit market;

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

11 or

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

13 (c) The board may use money in the fund:

14 (1) as a source of revenue or security for:

15 (A) the payment of the principal of and interest

16 on:

17 (i) revenue bonds issued by the board under

18 this subchapter; or

19 (ii) other bonds issued by the board if the

20 proceeds of the bonds will be deposited in the fund; or

21 (B) a bond enhancement agreement; or

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

25 Sec. 15.475. ISSUANCE OF REVENUE BONDS. (a) The board may
26 issue revenue bonds for the purpose of providing money for the fund.

27 (b) The board may issue revenue bonds to refund revenue

1 bonds or bonds and obligations issued or incurred in accordance
2 with other provisions of law.

3 (c) Revenue bonds issued under this subchapter are special
4 obligations of the board payable only from and secured by
5 designated income and receipts of the fund, including principal of
6 and interest paid and to be paid on fund assets or income from
7 accounts created within the fund by the board, as determined by the
8 board.

9 (d) Revenue bonds issued under this subchapter do not
10 constitute indebtedness of the state as prohibited by the
11 constitution.

12 (e) The board may require fund participants to make charges,
13 levy taxes, or otherwise provide for sufficient money to pay
14 acquired obligations.

15 (f) Revenue bonds issued under this subchapter must be
16 authorized by resolution of the board and must have the form and
17 characteristics and bear the designations as the resolution
18 provides.

19 (g) Revenue bonds issued under this subchapter may:

20 (1) bear interest at the rate or rates payable
21 annually or otherwise;

22 (2) be dated;

23 (3) mature at the time or times, serially, as term
24 revenue bonds, or otherwise in not more than 50 years from their
25 dates;

26 (4) be callable before stated maturity on the terms
27 and at the prices, be in the denominations, be in the form, either

1 coupon or registered, carry registration privileges as to principal
2 only or as to both principal and interest and as to successive
3 exchange of coupon for registered bonds or one denomination for
4 bonds of other denominations, and successive exchange of registered
5 revenue bonds for coupon revenue bonds, be executed in the manner,
6 and be payable at the place or places inside or outside the state,
7 as provided by the resolution;

8 (5) be issued in temporary or permanent form;

9 (6) be issued in one or more installments and from time
10 to time as required and sold at a price or prices and under terms
11 determined by the board to be the most advantageous reasonably
12 obtainable; and

13 (7) be issued on a parity with and be secured in the
14 manner as other revenue bonds authorized to be issued by this
15 subchapter or may be issued without parity and secured differently
16 than other revenue bonds.

17 (h) Section 17.955 applies to revenue bonds issued under
18 this subchapter in the same manner as that section applies to water
19 financial assistance bonds.

20 (i) All proceedings relating to the issuance of revenue
21 bonds issued under this subchapter shall be submitted to the
22 attorney general for examination. If the attorney general finds
23 that the revenue bonds have been authorized in accordance with law,
24 the attorney general shall approve the revenue bonds, and the
25 revenue bonds shall be registered by the comptroller. After the
26 approval and registration, the revenue bonds are incontestable in
27 any court or other forum for any reason and are valid and binding

1 obligations in accordance with their terms for all purposes.

2 (j) The proceeds received from the sale of revenue bonds
3 issued under this subchapter may be deposited or invested in any
4 manner and in such investments as may be specified in the resolution
5 or other proceedings authorizing those obligations. Money in the
6 fund or accounts created by this subchapter or created in the
7 resolution or other proceedings authorizing the revenue bonds may
8 be invested in any manner and in any obligations as may be specified
9 in the resolution or other proceedings.

10 Sec. 15.476. SUBCHAPTER CUMULATIVE OF OTHER LAWS. (a) This
11 subchapter is cumulative of other laws on the subject, and the board
12 may use provisions of other applicable laws in the issuance of bonds
13 and other obligations and the execution of bond enhancement
14 agreements, but this subchapter is wholly sufficient authority for
15 the issuance of bonds and other obligations, the execution of bond
16 enhancement agreements, and the performance of all other acts and
17 procedures authorized by this subchapter.

18 (b) In addition to other authority granted by this
19 subchapter, the board may exercise the authority granted to the
20 governing body of an issuer with regard to the issuance of
21 obligations under Chapter 1371, Government Code.

22 SECTION 3. Section 15.973(b), Water Code, is amended to
23 read as follows:

24 (b) The fund consists of:

25 (1) appropriations from the legislature;

26 (2) any other fees or sources of revenue that the
27 legislature may dedicate for deposit to the fund;

- 1 (3) repayments of loans made from the fund;
2 (4) interest earned on money credited to the fund;
3 (5) depository interest allocable to the fund;
4 (6) money from gifts, grants, or donations to the
5 fund;
6 (7) money from revenue bonds or other sources
7 designated by the board; ~~and~~
8 (8) proceeds from the sale of political subdivision
9 bonds or obligations held in the fund and not otherwise pledged to
10 the discharge, repayment, or redemption of revenue bonds or other
11 bonds, the proceeds of which were placed in the fund; and
12 (9) money disbursed to the fund from the state water
13 implementation fund for Texas as authorized by Section 15.434.

14 SECTION 4. Section 15.974, Water Code, is amended by adding
15 Subsection (b) to read as follows:

16 (b) The board shall transfer back to the state water
17 implementation fund for Texas any money disbursed to the fund as
18 described by Section 15.973(b)(9) if the requirements of Section
19 15.435 are satisfied.

20 SECTION 5. Section 15.993, Water Code, is amended to read as
21 follows:

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

24 (1) money directly appropriated to the board for a
25 purpose of the fund;

26 (2) repayment of principal and interest from loans
27 made from the fund not otherwise needed as a source of revenue

1 pursuant to Section 17.9615(b);

2 (3) money transferred by the board from any sources
3 available;

4 (4) interest earned on the investment of money in the
5 fund and depository interest allocable to the fund;

6 (5) money transferred to the fund from the water
7 assistance fund in accordance with Section 15.011(b), including
8 proceeds from the sale of political subdivision bonds by the board
9 to the Texas Water Resources Finance Authority that are deposited
10 in the water assistance fund as provided by Section 17.0871;

11 (6) money from gifts, grants, or donations to the
12 fund;

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

15 (8) [~~7~~] any other fees or sources of revenue that
16 the legislature may dedicate for deposit to the fund.

17 SECTION 6. Section 15.994, Water Code, is amended by adding
18 Subsection (i) to read as follows:

19 (i) The board shall transfer back to the state water
20 implementation fund for Texas any money disbursed to the fund as
21 described by Section 15.993(7) if the requirements of Section
22 15.435 are satisfied.

23 SECTION 7. Section 17.183, Water Code, is amended to read as
24 follows:

25 Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) The
26 governing body of each political subdivision receiving financial
27 assistance from the board shall require in all contracts for the

1 construction of a project:

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

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

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

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

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

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

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

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

27 (B) approval by the governing body of the

1 political subdivision by a resolution or other formal action; and

2 (C) certification by the executive administrator
3 in accordance with the rules of the board that the work to be done
4 under the contract has been completed and performed in a
5 satisfactory manner and in accordance with approved plans and
6 specifications [~~sound engineering principles and practices~~];

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

11 (7) that, if a political subdivision receiving
12 financial assistance under Subchapter K of this chapter, labor from
13 inside the political subdivision be used to the extent possible;
14 and

15 (8) that the contract include a requirement that iron
16 and steel products and manufactured goods used in the project be
17 produced in the United States, unless:

- 18 (A) such products or goods are not:
19 (i) available in sufficient quantities;
20 (ii) readily available; or
21 (iii) of a satisfactory quality; or

22 (B) the use of such products or goods will
23 increase the total cost of the project by more than 20 percent.

24 (b) Plans and specifications submitted to the board in
25 connection with an application for financial assistance must
26 include a seal by a licensed engineer affirming that the plans and
27 specifications are consistent with and conform to current industry

1 design and construction standards.

2 (c) For the purposes of Subsections (a)(8) and (d):

3 (1) "Component" means any article, material, or
4 supply, whether a manufactured good or raw material, that is
5 directly incorporated into a manufactured good.

6 (2) "Manufactured good" means an item produced as the
7 result of a manufacturing process.

8 (3) "Manufacturing process" means the application of a
9 process to alter the form or function of materials or elements of a
10 product in a manner that adds value and transforms the materials or
11 elements so that a new end product is produced that is functionally
12 different from the product that would result from simple assembly
13 of the materials or elements.

14 (4) "Produced in the United States" means:

15 (A) in the case of iron and steel products,
16 products for which all manufacturing processes, from initial
17 melting through application of coatings, take place in the United
18 States, except metallurgical processes that involve the refinement
19 of steel additives; and

20 (B) in the case of a manufactured good, a good for
21 which:

22 (i) all of the manufacturing process that
23 produced the manufactured good takes place in the United States;

24 and

25 (ii) more than 60 percent of the components
26 of the manufactured good, by cost, originate in the United States.

27 (d) For the purposes of Subsection (c)(4)(B)(ii), if a

1 component originates in the United States, the entire cost of that
2 component contributes to the determination of the percentage of the
3 components of the manufactured good that originate in the United
4 States.

5 (e) This section shall be applied in a manner consistent
6 with this state's obligations under any international agreement.

7 SECTION 8. Section 17.185(a), Water Code, is amended to
8 read as follows:

9 (a) The board may inspect the construction of a project at
10 any time to assure that[+]

11 [~~(1)~~] the contractor is substantially complying with
12 the approved engineering plans and specifications of the project[+]
13 ~~and~~

14 [~~(2) the contractor is constructing the project in~~
15 ~~accordance with sound engineering principles].~~

16 SECTION 9. Section 17.187, Water Code, is amended to read as
17 follows:

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

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

23 (2) [~~failure to construct the works in accordance with~~
24 ~~sound engineering principles, or~~

25 [~~(3)~~] failure to comply with any term of the contract.

26 SECTION 10. Section 17.276(c), Water Code, is amended to
27 read as follows:

1 (c) The board has the sole responsibility and authority for
2 selecting the political subdivisions to whom financial assistance
3 may be provided for treatment works and the amount of any such
4 assistance. [~~In consultation with and pursuant to agreement with~~
5 ~~the political subdivision, except as provided by Subsection (d) of~~
6 ~~this section, the board shall determine the location, time, design,~~
7 ~~scope, and all other aspects of the construction of a sewerage~~
8 ~~system for which financial assistance is provided.~~]

9 SECTION 11. Section 17.775(c), Water Code, is amended to
10 read as follows:

11 (c) The board has the sole responsibility and authority for
12 selecting the political subdivisions to whom financial assistance
13 may be provided and [~~7~~] the amount of any such assistance [~~7, and in~~
14 ~~consultation with and pursuant to agreement with the political~~
15 ~~subdivision, the board shall determine the location, time, design,~~
16 ~~scope, and all other aspects of the construction to be performed].~~

17 SECTION 12. Section 17.853(c), Water Code, is amended to
18 read as follows:

19 (c) The board may use the fund only:

20 (1) to provide state matching funds for federal funds
21 provided to the state water pollution control revolving fund or to
22 any additional state revolving fund created under Subchapter J,
23 Chapter 15;

24 (2) to provide financial assistance from the proceeds
25 of taxable bond issues to water supply corporations organized under
26 Chapter 67, and other participants;

27 (3) to provide financial assistance to participants

1 for the construction of water supply projects and treatment works;

2 (4) to provide financial assistance for an interim
3 construction period to participants for projects for which the
4 board will provide long-term financing through the water
5 development fund;

6 (5) to provide financial assistance for water supply
7 and sewer service projects in economically distressed areas as
8 provided by Subchapter K, Chapter 17, to the extent the board can
9 make that assistance without adversely affecting the current or
10 future integrity of the fund or of any other financial assistance
11 program of the board; ~~and~~

12 (6) to provide funds to the water infrastructure fund
13 created under Section 15.973; and

14 (7) to provide funds to the state water implementation
15 revenue fund for Texas created under Section 15.472.

16 SECTION 13. Section 17.895, Water Code, is amended to read
17 as follows:

18 Sec. 17.895. SOURCES OF ASSETS. The fund is composed of:

19 (1) money and assets, including bond proceeds,
20 attributable to the bonds;

21 (2) investment income earned on money on deposit in
22 the fund and depository interest earned on money on deposit in the
23 state treasury;

24 (3) money appropriated by the legislature;

25 (4) repayments of principal and interest on loans made
26 under this subchapter;

27 (5) administrative fees charged by the board under the

1 bond program;

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

4 (7) [~~6~~] any other funds, regardless of their source,
5 that the board directs be deposited to the credit of the fund.

6 SECTION 14. Section 17.899, Water Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The board shall transfer back to the state water
9 implementation fund for Texas any money disbursed to the fund as
10 described by Section 17.895(6) if the requirements of Section
11 15.435 are satisfied.

12 SECTION 15. Section 17.957, Water Code, is amended by
13 amending Subsection (b) and adding Subsection (d) to read as
14 follows:

15 (b) The state participation account is composed of:

16 (1) money and assets attributable to water financial
17 assistance bonds designated by the board as issued for projects
18 described in Section 16.131;

19 (2) money from the sale, transfer, or lease of a
20 project described in Subdivision (1) that was acquired,
21 constructed, reconstructed, developed, or enlarged with money from
22 the state participation account;

23 (3) payments received under a bond enhancement
24 agreement with respect to water financial assistance bonds
25 designated by the board as issued for projects described in Section
26 16.131;

27 (4) investment income earned on money on deposit in

1 the state participation account;

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

4 (6) [~~5~~] any other funds, regardless of their source,
5 that the board directs be deposited to the credit of the state
6 participation account.

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

11 SECTION 16. As soon as practicable after the effective date
12 of this Act, the lieutenant governor and the speaker of the house of
13 representatives shall appoint the initial appointive members of the
14 State Water Implementation Fund for Texas Advisory Committee as
15 provided by Section 15.438, Water Code, as added by this Act.

16 SECTION 17. (a) Not later than September 1, 2014, the State
17 Water Implementation Fund for Texas Advisory Committee shall submit
18 recommendations to the Texas Water Development Board on the rules
19 to be adopted by the board under Sections 15.439(a)(1) and (2),
20 Water Code, as added by this Act.

21 (b) Not later than the later of the 90th day after the date
22 the Texas Water Development Board receives the recommendations
23 described by Subsection (a) of this section or March 1, 2015, the
24 board shall adopt rules under Section 15.439, Water Code, as added
25 by this Act.

26 SECTION 18. The Texas Water Development Board shall post
27 the information described by Section 15.440(b), Water Code, as

1 added by this Act, on the board's Internet website not later than
2 March 1, 2014.

3 SECTION 19. (a) Each regional water planning group shall
4 prioritize the projects included in the regional water plan most
5 recently adopted by the group in accordance with Section 15.436,
6 Water Code, as added by this Act, and submit the prioritization of
7 the projects to the Texas Water Development Board not later than
8 September 1, 2014.

9 (b) Section 15.436(d), Water Code, as added by this Act,
10 applies to a regional water plan beginning with the plan that is
11 required to be submitted to the Texas Water Development Board by
12 January 5, 2016.

13 SECTION 20. This Act takes effect September 1, 2013.

ADOPTED

APR 29 2013

Atty Gen
Secretary of the Senate

By: R. Her/FRASER

H.B. No. 4

Substitute the following for H.B. No. 4 :

By: [Signature]

C.S. H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration and functions of the Texas Water
3 Development Board; authorizing the issuance of revenue bonds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. ADMINISTRATION OF THE TEXAS WATER DEVELOPMENT BOARD

6 SECTION 1.01. Sections 6.052(a) and (b), Water Code, are
7 amended to read as follows:

8 (a) The board is composed of three [~~six~~] members who are
9 appointed by the governor with the advice and consent of the senate.
10 One member must have experience in the field of engineering, one
11 member must have experience in the field of public or private
12 finance, and one member must have experience in the field of law or
13 business.

14 (b) The governor shall make the appointments in such a
15 manner that the members reflect the diverse geographic regions and
16 population groups of this state and do not have any conflicts [~~each~~
17 ~~member is from a different section of the state and has no conflict]~~
18 of interest prohibited by state or federal law.

19 SECTION 1.02. Section 6.053, Water Code, is amended by
20 adding Subsection (d) to read as follows:

21 (d) A person is not eligible for appointment to the board if
22 the person served on the board on or before January 1, 2013.

23 SECTION 1.03. Section 6.054, Water Code, is amended by
24 amending Subsection (c) and adding Subsection (d) to read as

4-22-13
[Signature]

1 follows:

2 (c) If the executive administrator or a member has knowledge
3 that a potential ground for removal exists, the executive
4 administrator shall notify the chairman of the board of the
5 potential ground. The chairman of the board shall then notify the
6 governor and the attorney general that a potential ground for
7 removal exists. If the potential ground for removal includes the
8 chairman of the board, the executive administrator or another
9 member of the board shall notify the member [~~next highest ranking~~
10 ~~officer~~] of the board with the most seniority, who shall then notify
11 the governor and the attorney general that a potential ground for
12 removal exists.

13 (d) The governor, with the advice and consent of the senate,
14 may remove a board member from office as provided by Section 9,
15 Article XV, Texas Constitution.

16 SECTION 1.04. Section 6.056, Water Code, is amended to read
17 as follows:

18 Sec. 6.056. TERMS OF OFFICE. (a) The members of the board
19 hold office for staggered terms of six years, with the term [~~terms~~]
20 of one member [~~two members~~] expiring February 1 of each
21 odd-numbered year [~~every two years~~]. Each member holds office
22 until a his successor is appointed and has qualified.

23 (b) A person appointed to the board may not serve for more
24 than two six-year terms.

25 SECTION 1.05. Section 6.059, Water Code, is amended to read
26 as follows:

27 Sec. 6.059. CHAIRMAN OF THE BOARD [~~OFFICERS~~]. [~~(a)~~] The

1 governor shall designate one member as chairman of the board to
2 serve at the will of the governor.

3 ~~[(b) The members of the board shall elect a vice-chairman~~
4 ~~every two years. The board shall fill a vacancy in the office of~~
5 ~~vice-chairman for the remainder of the unexpired term.]~~

6 SECTION 1.06. Sections 6.060(a) and (b), Water Code, are
7 amended to read as follows:

8 (a) The board shall hold regular meetings and all hearings
9 at times specified by a board order and entered in its minutes ~~[meet~~
10 ~~at least once every other month on a day and at a place within the~~
11 ~~state selected by it, subject to recesses at the discretion of the~~
12 ~~board].~~ The ~~[chairman or two]~~ board ~~[members]~~ may hold special
13 meetings at the times and places in this state that the board
14 decides are appropriate for the performance of its duties. The
15 chairman of the board or the board member acting for the chairman
16 shall give the other members reasonable notice before holding a
17 special meeting ~~[call a special meeting at any time by giving notice~~
18 ~~to the other members].~~

19 (b) The chairman ~~[or in his absence the vice-chairman]~~ shall
20 preside at all meetings of the board. The chairman may designate
21 another board member to act for the chairman in the chairman's
22 absence.

23 SECTION 1.07. Section 6.061, Water Code, is amended to read
24 as follows:

25 Sec. 6.061. FULL-TIME SERVICE. Each member of the board
26 shall serve on a full-time basis. ~~[COMPENSATION; EXPENSES. A~~
27 ~~member is entitled to receive an amount as provided by the General~~

1 ~~Appropriations Act for each day he serves in the performance of his~~
2 ~~duties, together with travel and other necessary expenses.]~~

3 SECTION 1.08. Section 6.103, Water Code, is amended to read
4 as follows:

5 Sec. 6.103. EXECUTIVE ADMINISTRATOR. The board shall
6 appoint a person to be the executive administrator to serve at the
7 will of the board. A person is not eligible for appointment as the
8 executive administrator if the person served in that capacity on
9 January 1, 2013.

10 SECTION 1.09. (a) Not later than September 1, 2013, the
11 governor shall appoint the initial members of the Texas Water
12 Development Board under Section 6.052, Water Code, as amended by
13 this Act. In appointing the initial members of the board, the
14 governor shall appoint one person to a term expiring February 1,
15 2015, one to a term expiring February 1, 2017, and one to a term
16 expiring February 1, 2019.

17 (b) The terms of the current members of the board expire
18 September 1, 2013.

19 SECTION 1.10. (a) Not later than October 1, 2013, the Texas
20 Water Development Board shall appoint the executive administrator
21 of the board under Section 6.103, Water Code, as amended by this
22 Act.

23 (b) The person currently serving as the executive
24 administrator of the board ceases to serve in that capacity on the
25 date a new executive administrator is appointed under Subsection
26 (a) of this section.

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ARTICLE 2. FUNDING OF WATER PROJECTS

SECTION 2.01. (a) The legislature recognizes the importance of providing for this state's future water supply needs. The purpose of this article is to ensure that proper funding in the form of meaningful and adequate financial assistance is available to provide an adequate water supply for the future of this state.

(b) To accomplish that purpose, this article creates the state water implementation fund for Texas. The fund is intended to serve as a water infrastructure bank in order to enhance the financing capabilities of the Texas Water Development Board under constitutionally created programs and revenue bond programs. The fund provides a source of revenue or security for those programs and provides a cash flow mechanism under which money used in board programs flows back to the fund to provide protection for the fund's corpus. Money in the fund will be available immediately to provide support for low-interest loans, longer repayment terms for loans, incremental repurchase terms for projects in which the state owns an interest, and deferral of loan payments. Money in the fund may not be used to make grants. In addition, this article creates the state water implementation revenue fund for Texas for use in managing revenue bonds issued by the board that are supported by the state water implementation fund for Texas.

SECTION 2.02. Chapter 15, Water Code, is amended by adding Subchapters G and H to read as follows:

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

Sec. 15.431. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the State Water

1 Implementation Fund for Texas Advisory Committee.

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

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

6 Sec. 15.432. FUND. (a) The state water implementation fund
7 for Texas is a special fund outside the state treasury to be used by
8 the board, without further legislative appropriation, for the
9 purpose of implementing the state water plan as provided by this
10 subchapter. The board may establish separate accounts in the fund.
11 The fund and the fund's accounts are kept and held by the trust
12 company for and in the name of the board. The board has legal title
13 to money and investments in the fund until money is disbursed from
14 the fund as provided by this subchapter and board rules.

15 (b) Money deposited to the credit of the fund may be used
16 only as provided by this subchapter.

17 (c) The fund consists of:

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

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

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

27 (4) investment earnings and interest earned on amounts

1 credited to the fund; and

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

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

11 (b) The overall objective for the investment of the fund is
12 to maintain sufficient liquidity to meet the needs of the fund while
13 striving to preserve the purchasing power of the fund.

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

25 (d) The trust company may charge fees to cover its costs
26 incurred in managing and investing the fund. The fees must be
27 consistent with the fees the trust company charges other state and

1 local governmental entities for which it provides investment
2 management services. The trust company may recover fees it charges
3 under this subsection only from the earnings of the fund.

4 (e) The trust company annually shall provide a written
5 report to the board and to the advisory committee with respect to
6 the investment of the fund. The trust company shall contract with a
7 certified public accountant to conduct an independent audit of the
8 fund annually and shall present the results of each annual audit to
9 the board and to the advisory committee. This subsection does not
10 affect the state auditor's authority to conduct an audit of the fund
11 under Chapter 321, Government Code.

12 (f) The trust company shall adopt a written investment
13 policy that is appropriate for the fund. The trust company shall
14 present the investment policy to the investment advisory board
15 established under Section 404.028, Government Code. The investment
16 advisory board shall submit to the trust company recommendations
17 regarding the policy.

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

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

27 (i) An investment-related contract entered into under this

1 section is not subject to Chapter 2260, Government Code.

2 Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS
3 OR ACCOUNTS. (a) At the direction of the board, the trust company
4 shall make disbursements from the fund to another fund or account
5 pursuant to a bond enhancement agreement authorized by Section
6 15.435 in the amounts the board determines are needed for debt
7 service payments on or security provisions of the board's general
8 obligation bonds or revenue bonds, after considering all other
9 sources available for those purposes in the respective fund or
10 account.

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

15 (1) 10 percent to support projects described by
16 Section 15.435 that are for:

17 (A) rural political subdivisions as defined by
18 Section 15.992; or

19 (B) agricultural water conservation; and

20 (2) 20 percent to support projects described by
21 Section 15.435 that are designed for water conservation or reuse,
22 including agricultural water conservation in:

23 (A) metropolitan statistical areas with a
24 population of 325,000 or less; or

25 (B) counties that are outside the boundaries of
26 any metropolitan statistical area.

27 Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) A bond

1 enhancement agreement entered into under this section is an
2 agreement for professional services. A bond enhancement agreement
3 must contain terms that are consistent with Section 15.433(h), and
4 the agreement, including the period covered by the agreement and
5 all other terms and conditions of the agreement, must be approved by
6 the board. An obligation to disburse money from the fund in
7 accordance with a bond enhancement agreement is a special
8 obligation of the board payable solely from designated income and
9 receipts of the fund or an account in the fund established by the
10 board, as determined by the board. An obligation to disburse money
11 from the fund in accordance with a bond enhancement agreement does
12 not constitute indebtedness of the state.

13 (b) To facilitate the use of the fund for the purposes of
14 this subchapter, the board may direct the trust company to enter
15 into bond enhancement agreements to provide a source of revenue or
16 security for the payment of the principal of and interest on general
17 obligation bonds, including bonds issued under Section 49-d-9 or
18 49-d-11, Article III, Texas Constitution, or revenue bonds issued
19 by the board to finance or refinance projects included in the state
20 water plan if the proceeds of the sale of the bonds have been or will
21 be deposited to the credit of:

22 (1) the state water implementation revenue fund for
23 Texas;

24 (2) the water infrastructure fund;

25 (3) the rural water assistance fund;

26 (4) the Texas Water Development Fund II state
27 participation account; or

1 (5) the agricultural water conservation fund.

2 (c) If the trust company enters into a bond enhancement
3 agreement under Subsection (b), the board may direct the trust
4 company to make disbursements from the fund to another fund or
5 account for the support of bonds the proceeds of which are used to
6 provide financial assistance in the form of:

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

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

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

14 (B) 30 years;

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

17 (A) principal and interest; or

18 (B) accrued interest;

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

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

27 (d) The board may direct the trust company to enter into

1 bond enhancement agreements with respect to bonds issued by the
2 board before September 1, 2013, only if:

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

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

9 (3) general revenue of the state was appropriated
10 before September 1, 2013, for the payment of debt service on those
11 bonds.

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

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

22 (g) The board may not direct the trust company to enter into
23 a bond enhancement agreement with respect to bonds issued by the
24 board the proceeds of which may be used to provide financial
25 assistance to an applicant if at the time of the request the
26 applicant has failed to:

27 (1) submit or implement a water conservation plan in

1 accordance with Section 11.1271; or

2 (2) satisfactorily complete a request by the executive
3 administrator or a regional water planning group for information
4 relevant to the project for which the financial assistance is
5 sought, including a water infrastructure financing survey under
6 Section 16.053(q).

7 (h) The board may not approve a bond enhancement agreement
8 with respect to bonds issued by the board unless the agreement
9 contains a provision to the effect that if the trust company makes a
10 disbursement under the bond enhancement agreement from the fund to
11 the credit of another fund or account as provided by Section
12 15.434(a), the board shall direct the comptroller to transfer an
13 amount not to exceed that amount from the fund or account receiving
14 the payment back to the fund if:

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

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

21 (i) For purposes of Subsection (h)(1), the surplus balance
22 of a fund or account that receives a disbursement from the fund
23 under a bond enhancement agreement is the amount of money on deposit
24 in the fund or account, as determined by the board, that is
25 attributable to the general obligation bonds or revenue bonds that
26 are the subject of the bond enhancement agreement, including money
27 received from the sale or other disposition of the board's rights to

1 receive repayment of financial assistance, money received from the
2 sale, transfer, or lease of an acquired facility, money received
3 from the sale of water associated with an acquired facility, and
4 related investment earnings, that exceeds the amount required to
5 pay annual debt service on the bonds and any other amounts specified
6 in the resolution or other proceedings authorizing the bonds and
7 any related obligations.

8 (j) The board shall submit each bond enhancement agreement
9 and the record relating to the agreement to the attorney general for
10 examination as to the validity of the agreement. If the attorney
11 general finds that the agreement has been made in accordance with
12 the constitution and other laws of this state, the attorney general
13 shall approve the agreement and the comptroller shall register the
14 agreement. If the agreement is not submitted at the same time that
15 the bonds to which it relates are submitted, the agreement shall be
16 treated as a public security solely for the purposes of Section
17 1202.004, Government Code.

18 (k) After a bond enhancement agreement has been approved and
19 registered as provided by Subsection (j), the agreement is valid
20 and is incontestable for any cause.

21 Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER
22 PLANNING GROUPS. (a) Each regional water planning group shall
23 prioritize projects in its respective regional water planning area
24 for the purposes of Section 15.435. At a minimum, a regional water
25 planning group must consider the following criteria in prioritizing
26 each project:

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

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

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

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

9 (b) In prioritizing projects, each regional water planning
10 group shall include projects that meet long-term needs as well as
11 projects that meet short-term needs.

12 (c) The board shall create a stakeholders committee
13 composed of the presiding officer or a person designated by the
14 presiding officer of each regional water planning group to
15 establish standards to be used by the regional water planning
16 groups in prioritizing projects under this section. The
17 stakeholders committee may establish different standards to be used
18 by different regional water planning groups as necessary to account
19 for different circumstances affecting each region. Standards
20 established under this subsection must be approved by the board.
21 The board shall consult the stakeholders committee from time to
22 time regarding regional prioritization of projects.

23 (d) Each regional water planning group shall submit to the
24 board the prioritization developed by the group under this section
25 together with the group's respective regional water plan developed
26 and submitted under Section 16.053.

27 Sec. 15.437. PRIORITIZATION OF PROJECTS BY BOARD. (a) The

1 board shall prioritize projects included in the state water plan
2 for the purpose of providing financial assistance under this
3 subchapter.

4 (b) The board shall establish a system for prioritizing
5 projects for which financial assistance is sought from the board.
6 The system must provide for giving priority to projects in the
7 following order:

8 (1) projects that develop new water supplies, provide
9 for the conservation or reuse of existing supplies, or provide for
10 the conveyance of new water supplies to a water supply system;

11 (2) projects for new or expanded water treatment
12 plants to treat newly developed water supplies; and

13 (3) projects that meet unidentified future water
14 supply needs.

15 (c) The system established under Subsection (b) must
16 incorporate the following prioritization criteria:

17 (1) the recommendation of the state water plan
18 regarding timing of implementation of the project;

19 (2) the scope of the regional benefits of the project,
20 considering the number of entities and the size of the population to
21 be served by the project or other factors;

22 (3) the type of state financial assistance sought for
23 the project;

24 (4) the percentage of the water supply needs of the
25 region served by the project that will be met by the project;

26 (5) the status of implementation of the project;

27 (6) the amount of local funds to be used to finance the

1 project; and

2 (7) the priority given the project by the applicable
3 regional water planning group under Section 15.436.

4 Sec. 15.438. ADVISORY COMMITTEE. (a) The State Water
5 Implementation Fund for Texas Advisory Committee is composed of the
6 following seven members:

7 (1) the comptroller, or a person designated by the
8 comptroller;

9 (2) three members of the senate appointed by the
10 lieutenant governor, including:

11 (A) a member of the committee of the senate
12 having primary jurisdiction over matters relating to finance; and

13 (B) a member of the committee of the senate
14 having primary jurisdiction over natural resources; and

15 (3) three members of the house of representatives
16 appointed by the speaker of the house of representatives,
17 including:

18 (A) a member of the committee of the house of
19 representatives having primary jurisdiction over appropriations;
20 and

21 (B) a member of the committee of the house of
22 representatives having primary jurisdiction over natural
23 resources.

24 (b) The following persons shall serve as staff support for
25 the advisory committee:

26 (1) the deputy executive administrator of the board
27 who is responsible for water science and conservation or a person

1 who holds an equivalent position at the agency, or a person
2 designated by that person;

3 (2) the deputy executive administrator of the board
4 who is responsible for water resources planning and information or
5 a person who holds an equivalent position at the agency, or a person
6 designated by that person; and

7 (3) the chief financial officer of the board, or a
8 person who holds an equivalent position at the agency.

9 (c) The advisory committee shall select a nationally
10 recognized bond counsel and financial advisor to serve as the
11 advisory committee's independent legal counsel for the purpose of
12 advising the advisory committee in connection with the
13 administration of the advisory committee's duties under this
14 section. The board is responsible for paying the cost of retaining
15 a bond counsel and financial advisor and may pay the cost from the
16 fund.

17 (d) An appointed member of the advisory committee serves at
18 the will of the person who appointed the member.

19 (e) The lieutenant governor shall appoint a co-presiding
20 officer of the advisory committee from among the members appointed
21 by the lieutenant governor, and the speaker of the house of
22 representatives shall appoint a co-presiding officer of the
23 committee from among the members appointed by the speaker.

24 (f) The advisory committee may hold public hearings, formal
25 meetings, or work sessions. Either co-presiding officer of the
26 advisory committee may call a public hearing, formal meeting, or
27 work session of the advisory committee at any time. The advisory

1 committee may not take formal action at a public hearing, formal
2 meeting, or work session unless a quorum of the committee is
3 present.

4 (g) Except as otherwise provided by this subsection, a
5 member of the advisory committee is not entitled to receive
6 compensation for service on the committee or reimbursement for
7 expenses incurred in the performance of official duties as a member
8 of the committee. Service on the advisory committee by a member of
9 the senate or house of representatives is considered legislative
10 service for which the member is entitled to reimbursement and other
11 benefits in the same manner and to the same extent as for other
12 legislative service.

13 (h) The advisory committee shall submit comments and
14 recommendations to the board regarding the use of money in the fund
15 for use by the board in adopting rules under Section 15.439 and in
16 adopting policies and procedures under Section 15.441. The
17 submission must include:

18 (1) comments and recommendations on rulemaking
19 related to the prioritization of projects in regional water plans
20 and the state water plan in accordance with Sections 15.436 and
21 15.437;

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

25 (3) an evaluation of the available programs for
26 providing financing for projects included in the state water plan
27 and guidelines for implementing those programs, including

1 guidelines for providing financing for projects included in the
2 state water plan that are authorized under Subchapter Q or R of this
3 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17;
4 (4) an evaluation of the lending practices of the
5 board and guidelines for lending standards;
6 (5) an evaluation of the use of funds by the board to
7 provide support for financial assistance for water projects,
8 including support for the purposes described by Section 15.435(c);
9 (6) an evaluation of whether premium financing
10 programs should be established within the funds described by
11 Section 15.435 to serve the purposes of this subchapter, especially
12 in connection with projects described by Section 15.434(b);
13 (7) an evaluation of methods for encouraging
14 participation in the procurement process by companies domiciled in
15 this state; and
16 (8) an evaluation of the overall operation, function,
17 and structure of the fund.
18 (i) The advisory committee shall review the overall
19 operation, function, and structure of the fund at least
20 semiannually and may provide comments and recommendations to the
21 board on any matter.
22 (j) The advisory committee may adopt rules, procedures, and
23 policies as needed to administer this section and implement its
24 responsibilities.
25 (k) Chapter 2110, Government Code, does not apply to the
26 size, composition, or duration of the advisory committee.
27 (l) The advisory committee is subject to Chapter 325,

1 Government Code (Texas Sunset Act). Unless continued in existence
2 as provided by that chapter, the advisory committee is abolished
3 and this section expires September 1, 2023.

4 (m) The advisory committee shall make recommendations to
5 the board regarding information to be posted on the board's
6 Internet website under Section 15.440(b).

7 Sec. 15.439. RULES. (a) The board shall adopt rules
8 providing for the use of money in the fund that are consistent with
9 this subchapter, including rules:

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

12 (2) specifying the manner for prioritizing projects
13 for purposes of Section 15.437.

14 (b) The board shall give full consideration to the
15 recommendations of the advisory committee before adopting rules
16 under this subchapter.

17 Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a)
18 Not later than December 1 of each even-numbered year, the board
19 shall provide a report to the governor, lieutenant governor,
20 speaker of the house of representatives, and members of the
21 legislature regarding the use of the fund, including the use of the
22 fund to support projects that are for rural political subdivisions
23 or agricultural water conservation or that are designed for water
24 conservation or reuse as required by Section 15.434(b).

25 (b) The board shall post the following information on the
26 board's Internet website regarding the use of the fund and
27 regularly update the information posted:

1 (1) the progress made in developing needed water
2 supply statewide and for the benefit of each regional water
3 planning area; and

4 (2) for each regional water planning area, a
5 description of each project funded through bonds supported by a
6 bond enhancement agreement entered into under Section 15.435,
7 including:

8 (A) the expected date of completion of the
9 project; and

10 (B) the current status of the project.

11 Sec. 15.441. POLICIES AND PROCEDURES TO MITIGATE OR
12 MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. The board shall
13 adopt, and may amend from time to time at the board's discretion,
14 policies and procedures for the purpose of mitigating or minimizing
15 the adverse effects, if any, of federal laws and regulations
16 relating to income taxes, arbitrage, rebates, and related matters
17 that may restrict the board's ability to freely invest all or part
18 of the fund or to receive and retain all the earnings from the fund.

19 SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

20 Sec. 15.471. DEFINITION. In this subchapter, "fund" means
21 the state water implementation revenue fund for Texas.

22 Sec. 15.472. FUND. (a) The state water implementation
23 revenue fund for Texas is a special fund outside the state treasury
24 to be used by the board, without further legislative appropriation,
25 for the purpose of providing financing for projects included in the
26 state water plan that are authorized under Subchapter Q or R of this
27 chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17.

1 The board may establish separate accounts in the fund. The board
2 has legal title to money and investments in the fund until the money
3 is disbursed as provided by this subchapter and board rules.

4 (b) Money deposited to the credit of the fund may be used
5 only as provided by this subchapter.

6 (c) The fund consists of:

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

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

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

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

18 (5) the proceeds from the sale of bonds, including
19 revenue bonds issued by the board under this subchapter, that are
20 designated by the board for the purpose of providing money for the
21 fund; and

22 (6) money disbursed to the fund from the state water
23 implementation fund for Texas as authorized by Section 15.434.

24 Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Money
25 deposited to the credit of the fund shall be invested as determined
26 by the board. The fund may be invested with the state treasury
27 pool.

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

3 (c) At the direction of the board, the fund and any accounts
4 established in the fund may be kept and held in escrow and in trust
5 by the comptroller or a corporate trustee that is a trust company or
6 a bank that has the powers of a trust company for and on behalf of
7 the board and pending their use for the purposes provided by this
8 subchapter may be invested as provided by an order, resolution, or
9 rule of the board.

10 (d) The comptroller or corporate trustee, as custodian,
11 shall administer the fund in strict accordance with this subchapter
12 and the orders, resolutions, and rules of the board.

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

19 (b) Financing or refinancing of projects described by
20 Subsection (a) may be provided by using money in the fund to:

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

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

1 will:

2 (A) improve access to the credit market;

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

4 or

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

6 (c) The board may use money in the fund:

7 (1) as a source of revenue or security for:

8 (A) the payment of the principal of and interest

9 on:

10 (i) revenue bonds issued by the board under

11 this subchapter; or

12 (ii) other bonds issued by the board if the

13 proceeds of the bonds will be deposited in the fund; or

14 (B) a bond enhancement agreement; or

15 (2) to pay the necessary and reasonable expenses of

16 paying agents, bond counsel, and financial advisory services and

17 similar costs incurred by the board in administering the fund.

18 Sec. 15.475. ISSUANCE OF REVENUE BONDS. (a) The board may

19 issue revenue bonds for the purpose of providing money for the fund.

20 (b) The board may issue revenue bonds to refund revenue

21 bonds or bonds and obligations issued or incurred in accordance

22 with other provisions of law.

23 (c) Revenue bonds issued under this subchapter are special

24 obligations of the board payable only from and secured by

25 designated income and receipts of the fund, including principal of

26 and interest paid and to be paid on fund assets or income from

27 accounts created within the fund by the board, as determined by the

1 board.

2 (d) Revenue bonds issued under this subchapter do not
3 constitute indebtedness of the state as prohibited by the
4 constitution.

5 (e) The board may require fund participants to make charges,
6 levy taxes, or otherwise provide for sufficient money to pay
7 acquired obligations.

8 (f) Revenue bonds issued under this subchapter must be
9 authorized by resolution of the board and must have the form and
10 characteristics and bear the designations as the resolution
11 provides.

12 (g) Revenue bonds issued under this subchapter may:

13 (1) bear interest at the rate or rates payable
14 annually or otherwise;

15 (2) be dated;

16 (3) mature at the time or times, serially, as term
17 revenue bonds, or otherwise in not more than 50 years from their
18 dates;

19 (4) be callable before stated maturity on the terms
20 and at the prices, be in the denominations, be in the form, either
21 coupon or registered, carry registration privileges as to principal
22 only or as to both principal and interest and as to successive
23 exchange of coupon for registered bonds or one denomination for
24 bonds of other denominations, and successive exchange of registered
25 revenue bonds for coupon revenue bonds, be executed in the manner,
26 and be payable at the place or places inside or outside the state,
27 as provided by the resolution;

1 (5) be issued in temporary or permanent form;

2 (6) be issued in one or more installments and from time
3 to time as required and sold at a price or prices and under terms
4 determined by the board to be the most advantageous reasonably
5 obtainable; and

6 (7) be issued on a parity with and be secured in the
7 manner as other revenue bonds authorized to be issued by this
8 subchapter or may be issued without parity and secured differently
9 than other revenue bonds.

10 (h) Section 17.955 applies to revenue bonds issued under
11 this subchapter in the same manner as that section applies to water
12 financial assistance bonds.

13 (i) All proceedings relating to the issuance of revenue
14 bonds issued under this subchapter shall be submitted to the
15 attorney general for examination. If the attorney general finds
16 that the revenue bonds have been authorized in accordance with law,
17 the attorney general shall approve the revenue bonds, and the
18 revenue bonds shall be registered by the comptroller. After the
19 approval and registration, the revenue bonds are incontestable in
20 any court or other forum for any reason and are valid and binding
21 obligations in accordance with their terms for all purposes.

22 (j) The proceeds received from the sale of revenue bonds
23 issued under this subchapter may be deposited or invested in any
24 manner and in such investments as may be specified in the resolution
25 or other proceedings authorizing those obligations. Money in the
26 fund or accounts created by this subchapter or created in the
27 resolution or other proceedings authorizing the revenue bonds may

1 be invested in any manner and in any obligations as may be specified
2 in the resolution or other proceedings.

3 Sec. 15.476. SUBCHAPTER CUMULATIVE OF OTHER LAWS. (a) This
4 subchapter is cumulative of other laws on the subject, and the board
5 may use provisions of other applicable laws in the issuance of bonds
6 and other obligations and the execution of bond enhancement
7 agreements, but this subchapter is wholly sufficient authority for
8 the issuance of bonds and other obligations, the execution of bond
9 enhancement agreements, and the performance of all other acts and
10 procedures authorized by this subchapter.

11 (b) In addition to other authority granted by this
12 subchapter, the board may exercise the authority granted to the
13 governing body of an issuer with regard to the issuance of
14 obligations under Chapter 1371, Government Code.

15 SECTION 2.03. Section 15.973(b), Water Code, is amended to
16 read as follows:

17 (b) The fund consists of:

18 (1) appropriations from the legislature;

19 (2) any other fees or sources of revenue that the
20 legislature may dedicate for deposit to the fund;

21 (3) repayments of loans made from the fund;

22 (4) interest earned on money credited to the fund;

23 (5) depository interest allocable to the fund;

24 (6) money from gifts, grants, or donations to the
25 fund;

26 (7) money from revenue bonds or other sources
27 designated by the board; [~~and~~]

1 (8) proceeds from the sale of political subdivision
2 bonds or obligations held in the fund and not otherwise pledged to
3 the discharge, repayment, or redemption of revenue bonds or other
4 bonds, the proceeds of which were placed in the fund; and

5 (9) money disbursed to the fund from the state water
6 implementation fund for Texas as authorized by Section 15.434.

7 SECTION 2.04. Section 15.974, Water Code, is amended by
8 adding Subsection (b) to read as follows:

9 (b) The board shall transfer back to the state water
10 implementation fund for Texas any money disbursed to the fund as
11 described by Section 15.973(b)(9) if the requirements of Section
12 15.435 are satisfied.

13 SECTION 2.05. Section 15.993, Water Code, is amended to
14 read as follows:

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

17 (1) money directly appropriated to the board for a
18 purpose of the fund;

19 (2) repayment of principal and interest from loans
20 made from the fund not otherwise needed as a source of revenue
21 pursuant to Section 17.9615(b);

22 (3) money transferred by the board from any sources
23 available;

24 (4) interest earned on the investment of money in the
25 fund and depository interest allocable to the fund;

26 (5) money transferred to the fund from the water
27 assistance fund in accordance with Section 15.011(b), including

1 proceeds from the sale of political subdivision bonds by the board
2 to the Texas Water Resources Finance Authority that are deposited
3 in the water assistance fund as provided by Section 17.0871;

4 (6) money from gifts, grants, or donations to the
5 fund;

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

8 (8) [~~7~~] any other fees or sources of revenue that
9 the legislature may dedicate for deposit to the fund.

10 SECTION 2.06. Section 15.994, Water Code, is amended by
11 adding Subsection (i) to read as follows:

12 (i) The board shall transfer back to the state water
13 implementation fund for Texas any money disbursed to the fund as
14 described by Section 15.993(7) if the requirements of Section
15 15.435 are satisfied.

16 SECTION 2.07. Section 17.183, Water Code, is amended to
17 read as follows:

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

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

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

26 (A) the performance bond shall include without
27 limitation guarantees that work done under the contract will be

1 completed and performed according to approved plans and
2 specifications and in accordance with sound construction
3 principles and practices; and

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

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

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

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

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

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

22 (C) certification by the executive administrator
23 in accordance with the rules of the board that the work to be done
24 under the contract has been completed and performed in a
25 satisfactory manner and in accordance with approved plans and
26 specifications ~~[sound engineering principles and practices]~~;

27 (6) that no valid approval may be granted unless the

1 work done under the contract has been completed and performed in a
2 satisfactory manner according to approved plans and
3 specifications; and

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

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

12 SECTION 2.08. Section 17.185(a), Water Code, is amended to
13 read as follows:

14 (a) The board may inspect the construction of a project at
15 any time to assure that[+

16 [~~1~~] the contractor is substantially complying with
17 the approved engineering plans and specifications of the project[+
18 ~~and~~

19 [~~2~~ ~~the contractor is constructing the project in~~
20 ~~accordance with sound engineering principles~~].

21 SECTION 2.09. Section 17.187, Water Code, is amended to
22 read as follows:

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

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

1 (2) ~~[failure to construct the works in accordance with~~
2 ~~sound engineering principles, or~~
3 ~~(3)]~~ failure to comply with any term of the contract.

4 SECTION 2.10. Section 17.276(c), Water Code, is amended to
5 read as follows:

6 (c) The board has the sole responsibility and authority for
7 selecting the political subdivisions to whom financial assistance
8 may be provided for treatment works and the amount of any such
9 assistance. ~~[In consultation with and pursuant to agreement with~~
10 ~~the political subdivision, except as provided by Subsection (d) of~~
11 ~~this section, the board shall determine the location, time, design,~~
12 ~~scope, and all other aspects of the construction of a sewerage~~
13 ~~system for which financial assistance is provided.]~~

14 SECTION 2.11. Section 17.775(c), Water Code, is amended to
15 read as follows:

16 (c) The board has the sole responsibility and authority for
17 selecting the political subdivisions to whom financial assistance
18 may be provided and [7] the amount of any such assistance~~[7 and in~~
19 ~~consultation with and pursuant to agreement with the political~~
20 ~~subdivision, the board shall determine the location, time, design,~~
21 ~~scope, and all other aspects of the construction to be performed].~~

22 SECTION 2.12. Section 17.853(c), Water Code, is amended to
23 read as follows:

24 (c) The board may use the fund only:

25 (1) to provide state matching funds for federal funds
26 provided to the state water pollution control revolving fund or to
27 any additional state revolving fund created under Subchapter J,

1 Chapter 15;

2 (2) to provide financial assistance from the proceeds
3 of taxable bond issues to water supply corporations organized under
4 Chapter 67, and other participants;

5 (3) to provide financial assistance to participants
6 for the construction of water supply projects and treatment works;

7 (4) to provide financial assistance for an interim
8 construction period to participants for projects for which the
9 board will provide long-term financing through the water
10 development fund;

11 (5) to provide financial assistance for water supply
12 and sewer service projects in economically distressed areas as
13 provided by Subchapter K, Chapter 17, to the extent the board can
14 make that assistance without adversely affecting the current or
15 future integrity of the fund or of any other financial assistance
16 program of the board; ~~and~~

17 (6) to provide funds to the water infrastructure fund
18 created under Section 15.973; and

19 (7) to provide funds to the state water implementation
20 revenue fund for Texas created under Section 15.472.

21 SECTION 2.13. Section 17.895, Water Code, is amended to
22 read as follows:

23 Sec. 17.895. SOURCES OF ASSETS. The fund is composed of:

24 (1) money and assets, including bond proceeds,
25 attributable to the bonds;

26 (2) investment income earned on money on deposit in
27 the fund and depository interest earned on money on deposit in the

1 state treasury;

2 (3) money appropriated by the legislature;

3 (4) repayments of principal and interest on loans made
4 under this subchapter;

5 (5) administrative fees charged by the board under the
6 bond program;

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

9 (7) [~~6~~] any other funds, regardless of their source,
10 that the board directs be deposited to the credit of the fund.

11 SECTION 2.14. Section 17.899, Water Code, is amended by
12 adding Subsection (c) to read as follows:

13 (c) The board shall transfer back to the state water
14 implementation fund for Texas any money disbursed to the fund as
15 described by Section 17.895(6) if the requirements of Section
16 15.435 are satisfied.

17 SECTION 2.15. Section 17.957, Water Code, is amended by
18 amending Subsection (b) and adding Subsection (d) to read as
19 follows:

20 (b) The state participation account is composed of:

21 (1) money and assets attributable to water financial
22 assistance bonds designated by the board as issued for projects
23 described in Section 16.131;

24 (2) money from the sale, transfer, or lease of a
25 project described in Subdivision (1) that was acquired,
26 constructed, reconstructed, developed, or enlarged with money from
27 the state participation account;

1 (3) payments received under a bond enhancement
2 agreement with respect to water financial assistance bonds
3 designated by the board as issued for projects described in Section
4 16.131;

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

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

9 (6) [~~5~~] any other funds, regardless of their source,
10 that the board directs be deposited to the credit of the state
11 participation account.

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

16 SECTION 2.16. Section 49.153(e), Water Code, is amended to
17 read as follows:

18 (e) Subsection (c) does not apply to:

19 (1) a note issued to and approved by [~~the~~]:

20 (A) the Farmers Home Administration;

21 (B) the United States Department of Agriculture;

22 (C) the Texas Water Development Board; [~~or~~]

23 (D) the North American Development Bank; or

24 (E) a federally chartered instrumentality of the
25 United States authorized under 12 U.S.C. Section 2128(f) to provide
26 financing for water and waste disposal facilities; or

27 (2) a district described by Section 49.181(h).

1 SECTION 2.17. Section 49.181(a), Water Code, is amended to
2 read as follows:

3 (a) A district may not issue bonds unless the commission
4 determines that the project to be financed by the bonds is feasible
5 and issues an order approving the issuance of the bonds. This
6 section does not apply to:

7 (1) refunding bonds if the commission issued an order
8 approving the issuance of the bonds or notes that originally
9 financed the project;

10 (2) refunding bonds that are issued by a district
11 under an agreement between the district and a municipality allowing
12 the issuance of the district's bonds to refund bonds issued by the
13 municipality to pay the cost of financing facilities;

14 (3) bonds issued to and approved by the Farmers Home
15 Administration, the United States Department of Agriculture, the
16 North American Development Bank, ~~or~~ the Texas Water Development
17 Board, or a federally chartered instrumentality of the United
18 States authorized under 12 U.S.C. Section 2128(f) to finance such a
19 project;

20 (4) refunding bonds issued to refund bonds described
21 by Subdivision (3); or

22 (5) bonds issued by a public utility agency created
23 under Chapter 572, Local Government Code, any of the public
24 entities participating in which are districts if at least one of
25 those districts is a district described by Subsection (h)(1)(E).

26 SECTION 2.18. (a) As soon as practicable after the
27 effective date of this Act, the lieutenant governor and the speaker

1 of the house of representatives shall appoint the initial
2 appointive members of the State Water Implementation Fund for Texas
3 Advisory Committee as provided by Section 15.438, Water Code, as
4 added by this Act.

5 (b) Notwithstanding Subsection (a) of this section and
6 Section 15.438, Water Code, as added by this Act, if the lieutenant
7 governor and the speaker of the house of representatives do not
8 appoint the initial appointive members of the State Water
9 Implementation Fund for Texas Advisory Committee as provided by
10 Section 15.438, Water Code, as added by this Act, by December 1,
11 2013:

12 (1) the presiding officer of the committee of the
13 senate having primary jurisdiction over natural resources and the
14 presiding officer of the committee of the house of representatives
15 having primary jurisdiction over natural resources serve as initial
16 members of the advisory committee and as the initial co-presiding
17 officers of the advisory committee;

18 (2) the presiding officer of the committee of the
19 senate having primary jurisdiction over natural resources shall
20 appoint two members of the senate to serve as initial members of the
21 advisory committee, including a member who meets the requirements
22 of Section 15.438(a)(2)(A), Water Code, as added by this Act; and

23 (3) the presiding officer of the committee of the
24 house of representatives having primary jurisdiction over natural
25 resources shall appoint two members of the house of representatives
26 to serve as initial members of the advisory committee, including a
27 member who meets the requirements of Section 15.438(a)(3)(A), Water

1 Code, as added by this Act.

2 SECTION 2.19. (a) Not later than September 1, 2014, the
3 State Water Implementation Fund for Texas Advisory Committee shall
4 submit recommendations to the Texas Water Development Board on the
5 rules to be adopted by the board under Sections 15.439(a)(1) and
6 (2), Water Code, as added by this Act.

7 (b) Not later than the later of the 90th day after the date
8 the Texas Water Development Board receives the recommendations
9 described by Subsection (a) of this section or March 1, 2015, the
10 board shall adopt rules under Section 15.439, Water Code, as added
11 by this Act.

12 SECTION 2.20. As soon as practicable after the effective
13 date of this Act, the Texas Water Development Board shall create a
14 stakeholders committee under Section 15.436(c), Water Code, as
15 added by this Act.

16 SECTION 2.21. Not later than December 1, 2013, the
17 stakeholders committee created by the Texas Water Development Board
18 under Section 15.436(c), Water Code, as added by this Act, shall
19 submit the standards established by the committee under that
20 subsection to the board.

21 SECTION 2.22. (a) Each regional water planning group shall
22 prepare a draft prioritization of the projects included in the
23 regional water plan most recently adopted by the group in
24 accordance with Section 15.436, Water Code, as added by this Act,
25 and submit the draft prioritization of the projects to the Texas
26 Water Development Board not later than June 1, 2014. The board
27 shall provide comments to each regional water planning group on the

1 draft prioritization submitted by the group. Each regional water
2 planning group shall submit a final prioritization of the projects
3 to the board not later than September 1, 2014.

4 (b) Section 15.436(d), Water Code, as added by this Act,
5 applies to a regional water plan beginning with the plan that is
6 required to be submitted to the Texas Water Development Board by
7 January 5, 2016.

8 SECTION 2.23. The Texas Water Development Board shall post
9 the information described by Section 15.440(b), Water Code, as
10 added by this Act, on the board's Internet website not later than
11 March 1, 2014.

12 ARTICLE 3. EFFECTIVE DATE

13 SECTION 3.01. This Act takes effect September 1, 2013.

ADOPTED

^{UC}
APR 29 2013

Leta Spill
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Fran*

1 Amend C.S.^H.B. No. 4 (senate committee printing) as follows:

2 (1) In Section 2.02 of the bill, strike proposed Section
3 15.432(a), Water Code (page 3, lines 29 through 37), and substitute
4 the following:

5 (a) The state water implementation fund for Texas is a
6 special fund in the state treasury outside the general revenue fund
7 to be used by the board for the purpose of implementing the state
8 water plan as provided by this subchapter. The board may establish
9 separate accounts in the fund. The fund and the accounts in the
10 fund are managed by the trust company.

11 (2) In Section 2.02 of the bill, strike proposed Section
12 15.472(a), Water Code (page 9, line 63, through page 10, line 2),
13 and substitute the following:

14 (a) The state water implementation revenue fund for Texas is
15 a special fund in the state treasury outside the general revenue
16 fund to be used by the board only for the purpose of providing
17 financing for projects included in the state water plan that are
18 authorized under Subchapter ~~Q~~^E, or R of this chapter, Subchapter E or
19 F, Chapter 16, or Subchapter J, Chapter 17. The board may establish
20 separate accounts in the fund.

21 (3) In Section 2.02 of the bill, in proposed Section
22 15.473(c), Water Code (page 10, line 30), strike "kept and held in
23 escrow and in trust" and substitute "managed".

24 (4) In Section 2.02 of the bill, in proposed Section
25 15.473(d), Water Code (page 10, lines 36 and 37), strike ", as
26 custodian, shall administer" and substitute "shall manage".

27 (5) In Section 2.02 of the bill, at the end of proposed
28 Section 15.474, Water Code (page 11, between lines 1 and 2), add the
29 following:

1 (d) The board, or comptroller or corporate trustee managing
2 the fund at the direction of the board as provided by Section
3 15.473(c), shall withdraw from the fund and forward to another
4 person any amounts, as determined by the board, for timely payment
5 of:

6 (1) the principal of and interest on bonds described
7 by Subsection (c)(1)(A) of this section that mature or become due;
8 and

9 (2) any cost related to bonds described by Subsection
10 (c)(1)(A) of this section that become due, including payments under
11 related credit agreements or bond enhancement agreements.

12 (6) In Section 2.12 of the bill, in proposed Section
13 17.853(c)(7), Water Code (page 14, line 40), strike "created under
14 Section 15.472".

15 (7) At the end of Article 2 of the bill add an appropriately
16 numbered section to the bill to read as follows:

17 SECTION 2.____. Sections 2.01-2.06, 2.12-2.15, and 2.18-2.23
18 of this article take effect on the date on which the constitutional
19 amendment proposed by the 83rd Legislature, Regular Session, 2013,
20 adding Sections 49-d-12 and 49-d-13, Article III, Texas
21 Constitution, creating the state water implementation fund for
22 Texas and the state water implementation revenue fund for Texas
23 takes effect. If that amendment is not approved by the voters,
24 those sections of this article have no effect.

25 (8) Strike Section 3.01 of the bill and substitute the
26 following:

27 SECTION 3.01. Except as otherwise provided by this Act,
28 this Act takes effect September 1, 2013.

ADOPTED

UC
APR 29 2013

Lately Saw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Frank*

1 Amend C.S. ~~4~~ .B. No. 4 (senate committee printing) as follows:

2 (1) In SECTION 2.02 of the bill, in added Section 15.434(b),
3 Water Code (page 4, lines 55 through 61), strike Subdivision (2) of
4 the subsection and substitute the following:

5 (2) 20 percent to support projects described by
6 Section 15.435, including agricultural irrigation projects, that
7 are designed for water conservation or reuse.

8 (2) In SECTION 2.02 of the bill, in added Section 15.435(a),
9 Water Code (page 4, line 68, through page 5, line 5), strike the
10 last two sentences of the subsection and substitute the following:

11 An obligation to disburse money from the fund, or from a special
12 account established by the board, in accordance with a bond
13 enhancement agreement is a special obligation of the board payable
14 solely from designated income and receipts of the fund or of the
15 account, as determined by the board. An obligation to disburse
16 money from the fund, or from a special account established by the
17 board, in accordance with a bond enhancement agreement does not
18 constitute indebtedness of the state.

19 (3) In SECTION 2.02 of the bill, at the end of added Section
20 15.435, Water Code (page 6, following line 52), add the following:

21 (1) At the direction of the board, the trust company shall
22 make disbursements from the fund, or from a special account
23 established by the board, in accordance with a bond enhancement
24 agreement in the amounts the board determines are needed for debt
25 service payments on, or for security provisions of, general
26 obligation bonds or revenue bonds issued by the board the proceeds
27 of the sale of which have been deposited in another fund
28 administered by the board, or in an account in that other fund, for
29 use in accordance with this subchapter, after the board considers

1 all other sources available for those purposes in that other fund or
2 account. Money transferred under this subsection may be deposited
3 into that other fund or into a special account established by the
4 trust company or a corporate trustee that is a trust company or a
5 bank that has the powers of a trust company, as determined by the
6 board.

7 (4) In SECTION 2.02 of the bill, in added Section 15.436(a),
8 Water Code (page 6, line 55), strike "planning area" and substitute
9 "plan".

10 (5) In SECTION 2.02 of the bill, in added Section 15.472(c),
11 Water Code, at the end of Subdivision (5) of the subsection (page
12 10, line 20), strike "and".

13 (6) In SECTION 2.02 of the bill, in added Section 15.472(c),
14 Water Code (page 10, lines 21 and 22), strike Subdivision (6) of the
15 subsection and substitute the following:

16 (6) repayments of loans made from the fund;

17 (7) money from the sale, transfer, or lease of a
18 project acquired, constructed, reconstructed, developed, or
19 enlarged with money from the fund; and

20 (8) money disbursed to the fund from the state water
21 implementation fund for Texas as authorized by Section 15.434.

22 (7) In SECTION 2.02 of the bill, in added Section 15.474,
23 Water Code (page 10, lines 45 through 58), strike Subsection (b) of
24 the section and substitute the following:

25 (b) Financing or refinancing of projects described by
26 Subsection (a) may be provided by using money in the fund to make
27 loans to eligible political subdivisions or to purchase bonds or
28 other obligations of eligible political subdivisions bearing
29 interest at a rate or rates determined by the board, including a
30 rate or rates below prevailing market rates.

31 (8) In SECTION 2.02 of the bill, in added Section 15.474(c),

1 Water Code, at the end of Subdivision (1) of the subsection (page
2 10, line 67), strike "or".

3 (9) In SECTION 2.02 of the bill, in added Section 15.474(c),
4 Water Code (page 10, line 68, through page 11, line 1), strike
5 Subdivision (2) of the subsection and substitute the following:

6 (2) to acquire loans or other assets from another fund
7 or account administered by the board, including political
8 subdivision bonds sold or disposed of under Section 15.978 or
9 17.968; or

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

13 (10) In SECTION 2.02 of the bill, in added Section
14 15.475(c), Water Code, between "fund," and "including" (page 11,
15 line 9), insert "or of one or more accounts in the fund,".

16 (11) Between SECTIONS 2.04 and 2.05 of the bill (page 12,
17 between lines 35 and 36), insert the following appropriately
18 numbered SECTION:

19 SECTION 2.____. Section 15.978(c), Water Code, is amended to
20 read as follows:

21 (c) Notwithstanding other provisions of this chapter, the
22 board may sell to the Texas Water Resources Finance Authority or to
23 the state water implementation revenue fund for Texas any political
24 subdivision bonds purchased with money in the water infrastructure
25 fund and may apply the proceeds of a sale in the manner provided by
26 this section.

27 (12) Between SECTIONS 2.15 and 2.16 of the bill (page 15,
28 between lines 20 and 21), insert the following appropriately
29 numbered SECTIONS:

30 SECTION 2.____. Subchapter L, Chapter 17, Water Code, is
31 amended by adding Section 17.9617 to read as follows:

1 Sec. 17.9617. TRANSFERS TO STATE WATER IMPLEMENTATION
2 REVENUE FUND FOR TEXAS. (a) The board may direct the comptroller to
3 transfer money or other assets from an account in the fund,
4 including from the financial assistance account or from the state
5 participation account, to the state water implementation revenue
6 fund for Texas to provide financial assistance under this
7 subchapter and Subchapter H, Chapter 15.

8 (b) A transfer of money or other assets from an account in
9 the fund may not cause general obligation bonds that are payable
10 from the fund or from an account in the fund to no longer be
11 self-supporting for purposes of Section 49-j(b), Article III, Texas
12 Constitution, as determined by the board.

13 (c) The board shall use the state water implementation
14 revenue fund for Texas, or an account in that fund, as a source of
15 revenue to be deposited in accordance with this subchapter for the
16 payment of principal and interest on water financial assistance
17 bonds issued by the board, the proceeds of which are to be deposited
18 into the state water implementation revenue fund for Texas, or the
19 account in that fund, and to be used to make payments under a bond
20 enhancement agreement with respect to principal or interest on the
21 water financial assistance bonds.

22 SECTION 2.____. Section 17.968, Water Code, is amended by
23 amending Subsection (a) and adding Subsection (a-1) to read as
24 follows:

25 (a) The board may sell or dispose of political subdivision
26 bonds or other assets purchased with money in the fund to any
27 person, including the Texas Water Resources Finance Authority, or
28 to another fund administered by the board, including the state
29 water implementation revenue fund for Texas, and the board, in such
30 manner as it shall determine, may apply the proceeds of the sale of
31 political subdivision bonds or other assets held by the board to:

1 (1) pay debt service on water financial assistance
2 bonds issued under this subchapter; or

3 (2) provide financial assistance to political
4 subdivisions for any one or more of the purposes authorized by
5 Section 49-d-8, Article III, Texas Constitution.

6 (a-1) A sale or disposition of political subdivision bonds
7 or other assets may not cause general obligation bonds that are
8 payable from the fund or from an account in the fund to no longer be
9 self-supporting for purposes of Section 49-j(b), Article III, Texas
10 Constitution, as determined by the board.

11 (13) In SECTION 2.16 of the bill, in added Section
12 49.153(e)(1)(E), Water Code (page 15, line 31), between
13 "facilities" and the semicolon, insert the following:

14 , provided that the district that executes the note is located
15 wholly in a county that:

16 (i) does not contain a municipality that
17 has a population of more than 750,000; and

18 (ii) is not adjacent to a county described
19 by Subparagraph (i)

20 (14) In SECTION 2.17 of the bill, in amended Section
21 49.181(a), Water Code (page 15, lines 46 through 51), strike
22 Subdivision (3) of the subsection and substitute the following:

23 (3) bonds issued to and approved by:

24 (A) the Farmers Home Administration;

25 (B) [~~7~~] the United States Department of
26 Agriculture;

27 (C) [~~7~~] the North American Development Bank;

28 (D) [~~7-01~~] the Texas Water Development Board; or

29 (E) a federally chartered instrumentality of the
30 United States authorized under 12 U.S.C. Section 2128(f) to finance
31 such a project, provided that the district that issues the bonds is

1 located wholly in a county that:

2 (i) does not contain a municipality that
3 has a population of more than 750,000; and

4 (ii) is not adjacent to a county described
5 by Subparagraph (i);

6 (15) Renumber the SECTIONS of ARTICLE 2 of the bill
7 accordingly.

ADOPTED

uc

APR 29 2013

Leta Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *[Signature]*

1 Amend C.S. H.B. No. 4 (senate committee report) as follows:

2 (1) In SECTION 2.02 of the bill, in added Section 15.435(b),
3 Water Code, between Subdivisions (1) and (2) of the subsection
4 (page 5, between lines 16 and 17), insert the following subdivision
5 and renumber the subsequent subdivisions of the subsection
6 accordingly:

7 (2) the storage acquisition fund;

8 (2) In SECTION 2.02 of the bill, in added Section
9 15.438(h)(3), Water Code (page 8, line 58), strike "Q" and
10 substitute "E, Q,".

11 (3) In SECTION 2.02 of the bill, at the end of added Section
12 15.438, Water Code (page 9, between lines 20 and 21), add the
13 following:

14 (n) The advisory committee shall evaluate and may provide
15 comments or recommendations on the feasibility of the state owning,
16 constructing, and operating water supply projects, including
17 reservoirs and major water supply conveyance infrastructure,
18 through existing financial assistance programs under Subchapter E
19 of this chapter, Subchapter E or F, Chapter 16, or other mechanisms.

20 ~~(4) In SECTION 2.02 of the bill, in added Section 15.472(a),~~
21 ~~Water Code (page 9, line 67), strike "Q" and substitute "E, Q,"~~

22 (4) In SECTION 2.02 of the bill, in added Section 15.474(a),
23 Water Code (page 10, line 43), strike "Q" and substitute "E, Q,".

24 (5) Add the following appropriately numbered SECTIONS to
25 ARTICLE 2 of the bill and renumber subsequent SECTIONS of the
26 ARTICLE accordingly:

27 SECTION 2.__. Section 15.301, Water Code, is amended to
28 read as follows:

29 Sec. 15.301. FUND CREATED. There is created a fund in the

1 state treasury to be known as the storage acquisition fund which is
2 to be funded by:

3 (1) direct appropriations;

4 (2) [~~and by~~] transfers from the fund at the discretion
5 of the board; and

6 (3) money disbursed to the fund from the state water
7 implementation fund for Texas as authorized by Section 15.434.

8 SECTION 2.____. Section 15.302, Water Code, is amended by
9 amending Subsection (a) and adding Subsection (c) to read as
10 follows:

11 (a) The board may use the storage acquisition fund for
12 projects including the design, acquisition, lease, construction,
13 reconstruction, development, or enlargement in whole or part of any
14 existing or proposed water storage or conveyance project.

15 (c) The board shall transfer back to the state water
16 implementation fund for Texas any money disbursed to the storage
17 acquisition fund as described by Section 15.301(3) if the
18 requirements of Section 15.435 are satisfied.

ADOPTED

APR 29 2013

Floor AMENDMENT NO. 4

Atty Gen
Secretary of the Senate

BY: *J. J. King*

Amend proposed C.S.H.B. No. 4 in SECTION 2.02 of the bill, in added Section 15.437(c)(6), Water Code, between "funds" and "to" (page 16, line 27), by inserting "already used or".

ADOPTED

^{uc}
APR 29 2013

Leta Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 5

BY: 

1 Amend C.S. H.B. No. 4 (senate committee printing) as follows:

2 (1) In SECTION 2.02 of the bill, in proposed Section 15.431,
3 Water Code (page 3, between lines 26 and 27), insert the following:

4 (3) "Historically underutilized business" has the
5 meaning assigned by Section 2161.001, Government Code.

6 (2) In SECTION 2.02 of the bill, in proposed Section
7 15.431(3), Water Code (page 3, line 27), strike "(3)" and
8 substitute "(4)".

9 (3) In SECTION 2.02 of the bill, in proposed Section 15.435,
10 Water Code, between Subsections (g) and (h) of the section (page 6,
11 between lines 11 and 12), insert the following:

12 (h) The board may not direct the trust company to enter into
13 a bond enhancement agreement with respect to bonds issued by the
14 board the proceeds of which may be used to provide financial
15 assistance to an applicant unless at the time of the request the
16 applicant has acknowledged its legal obligation to comply with any
17 applicable requirements of:

18 (1) federal law relating to contracting with
19 disadvantaged business enterprises; and

20 (2) state law relating to contracting with
21 historically underutilized businesses.

22 (4) Reletter the subsequent subsections of proposed Section
23 15.435, Water Code, and cross-references to those subsections
24 accordingly.

25 (5) In SECTION 2.02 of the bill, at the end of proposed
26 Section 15.438, Water Code (page 9, between lines 20 and 21), add
27 the following:

28 (n) The executive administrator shall provide an annual
29 report to the advisory committee on:

1 (1) the board's compliance with statewide annual goals
2 relating to historically underutilized businesses; and
3 (2) the participation level of historically
4 underutilized businesses in projects that receive funding related
5 to a bond enhancement agreement under this subchapter.
6 (o) If the aggregate level of participation by historically
7 underutilized businesses in projects that receive funding related
8 to a bond enhancement agreement under this subchapter does not meet
9 statewide annual goals adopted under Chapter 2161, Government Code,
10 the advisory committee shall make recommendations to the board to
11 improve the participation level.

ADOPTED

UC

APR 29 2013

FLOOR AMENDMENT NO. 6

Atty Gen
Secretary of the Senate BY:

Stem Hegar

1 Amend C.S. H.B. No. 4 (senate committee report) in SECTION
2 2.02 of the bill, in added Section 15.438(h)(7), Water Code,
3 between "state" and the semicolon (page 9, line 2), by inserting "or
4 that employ a significant number of residents of this state".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 2, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4 by Ritter (Relating to the administration and functions of the Texas Water Development Board; authorizing the issuance of revenue bonds.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4, As Passed 2nd House: a negative impact of (\$4,354,390) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|---|
| 2014 | (\$1,777,668) |
| 2015 | (\$2,576,722) |
| 2016 | (\$3,640,548) |
| 2017 | (\$3,598,533) |
| 2018 | (\$3,598,533) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from <i>General Revenue Fund</i> 1 | Change in Number of State Employees from FY 2013 |
|-------------|--|---|
| 2014 | (\$1,777,668) | 9.0 |
| 2015 | (\$2,576,722) | 21.3 |
| 2016 | (\$3,640,548) | 33.6 |
| 2017 | (\$3,598,533) | 33.6 |
| 2018 | (\$3,598,533) | 33.6 |

Costs shown in tables are administrative costs and assume passage of legislation providing \$2.0 billion to the State Water Implementation Fund for Texas (SWIFT).

Fiscal Analysis

The bill would provide that the Texas Water Development Board (TWDB) be composed of three full-time members rather than six part-time members and meet certain requirements. The bill creates the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT), each as a special fund in the state treasury outside the General Revenue Fund to be used by TWDB to finance projects in the state water plan. The bill includes various provisions related to the funds and to special accounts that could be established by TWDB. The funds could consist of money transferred or deposited by law; the proceeds of any fee or tax imposed by the state; other revenue dedicated by the Legislature; and investment and interest earned on the balance of the funds. The SWIFT may receive money transferred to the fund under a bond enhancement agreement (BEA). The SWIRFT may receive the proceeds from the sale of certain bonds, repayments of loans made from the fund, money from the sale, transfer or lease of certain projects, and money disbursed to the fund from the SWIFT.

The bill creates the Storage Acquisition Fund which can be funded by direct appropriations, transfers from the fund, and money disbursed to the fund from the SWIFT. TWDB may use the fund for certain projects related to an existing or proposed water storage or conveyance project.

The SWIFT would be held and managed by the Texas Treasury Safekeeping Trust Company (TTSTC) for, and in the name of, TWDB. The TTSTC may charge fees consistent with other fees it charges for investment management services from earnings of the SWIFT. TWDB may direct the TTSTC to disburse money from the SWIFT not more than twice annually, pursuant to BEAs in amounts determined by TWDB for the support of general obligation bonds or revenue bonds, the proceeds of which could be deposited to the SWIRFT, the Storage Acquisition Fund, the Water Infrastructure Fund, the Rural Water Assistance Fund, the State Participation Account, or the Agricultural Water Conservation Fund.

The SWIFT would be disbursed through a BEA for debt service payments on or security provisions of authorized TWDB general obligation or revenue bonds. Of money disbursed from the SWIFT during a five-year period between adoption of state water plans, TWDB must undertake to apply not less than: 10 percent to support projects that are for rural political subdivisions or agricultural water conservation; and 20 percent to support certain projects, including agricultural irrigation projects, that are designed for water conservation or reuse.

TWDB may direct the TTSTC to enter into BEAs to support the financing or refinancing of projects included in the state water plan which may be pledged for the payment of revenue and general obligation bonds, including TWDB's constitutionally-authorized bonds under Article III, Sections 49-d-9 and 49-d-11 of the Texas Constitution. A BEA may also be entered into for not self-supporting bonds issued before September 1, 2013.

The bill would require TWDB to prioritize state water plan projects for the purpose of providing financial assistance, based on certain criteria. Regional water planning groups would also prepare a draft prioritization of projects and submit it to TWDB by June 1, 2014 and a final prioritization by September 1, 2014. The prioritization applies to a regional water plan due January 5, 2016. The bill would also create the SWIFT Advisory Committee consisting of seven members, and require the Committee to 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 bill would require TWDB to adopt rules providing for the use of the SWIFT, including criteria for project funding and the manner for prioritizing projects. The bill would require that 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. Additionally, the bill would require TWDB to post certain related

information on its website.

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 principal and interest payments. TWDB may issue revenue bonds for the purpose of providing money for the fund, subject to approval by the Office of the Attorney General. 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. TWDB may sell to the Texas Water Resources Finance Authority or to the SWIRFT certain bonds purchased with money in the Water Infrastructure Fund. The bill amends the Texas Water Code to provide for the transfer of money or other assets from certain accounts to the SWIRFT to provide financial assistance.

The bill amends sections of the Texas Water Code relating to engineering plans and certain related practices.

Methodology

TWDB estimates costs of approximately \$2.4 million in the 2014-15 biennium to transform TWDB from its current composition to three full-time members. The analysis assumes three new full-time board members would be paid \$150,000 per fiscal year, based upon commissioner compensation at the Texas Commission on Environmental Quality and the Public Utility Commission. Each member would be supported by an executive assistant paid \$53,061 per fiscal year and a program specialist paid \$85,603 per fiscal year. Together, salaries (\$865,992), related employee benefits (\$257,546), and operating expenses (\$51,100) would cost \$1.2 million each fiscal year. One-time start up costs in fiscal year 2014 for office space build-out, furniture, and equipment for new personnel would be \$91,730.

TWDB reports that the creation of the SWIFT and adoption of related rules could be absorbed within existing agency resources. Assuming the passage of legislation providing \$2 billion in funding for the SWIFT, the agency would incur costs of approximately \$1.9 million for program administration for the 2014-15 biennium. This analysis assumes these costs would be paid from the General Revenue Fund as payment of administrative expenses is not an allowable use of SWIFT under provisions of the bill. 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. Potential savings to the General Revenue Fund from this provision cannot be determined at this time and as such are not reflected in the tables above.

TWDB would require \$511,300 in fiscal year 2014 for bond counsel services and cost increases in Regional Planning grants for prioritization of projects in the current and upcoming State Water Plan. In fiscal year 2015, an additional \$1.4 million to fund 12.3 FTEs would be required to administer funds, manage the increased loan portfolio, and provide project review and technical assistance. Included in the \$1.4 million is \$250,000 for bond counsel services and increased Regional Planning grant costs. Specific staff would include: Financial Analysts (2.3 FTE) for loan portfolio management, application review and loan closings; Accountants (1.6 FTE) for loan closings, financial management and reporting; Financial Examiner (0.8 FTE) to provide technical assistance and monitor the financial stability of underlying borrowers; Program Specialist (1.0) for general project oversight and preparation of water loss audits; Engineer II (1.8 FTE) for engineering review of projects during application and after commitment; Natural Resource Specialist (0.8 FTE) to provide environmental review of projects; Engineering Specialist

(2.4 FTE) to conduct field inspections during the construction phase of the project; and, other support staff including an Attorney III (0.8 FTE) and Contract Specialist III (0.8 FTE) to review contracts and payments.

Provisions related to TTSC are anticipated to be absorbed within the earnings of the new fund and not have a significant fiscal impact. 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, in and of itself, would have no fiscal impact with regard to funds deposited to the funds created in the state treasury. However, any eventual amounts provided to capitalize the funds would have a fiscal impact. Certain provisions of the bill related to the SWIFT and SWIRFT would take effect on the date a constitutional amendment which would add sections 49-d-12 and 49-d-13 to Article III of the Texas Constitution and create the SWIFT and SWIRFT takes effect. If that amendment is not approved by the voters, those sections of this bill would have no effect. Sections of the bill not subject to this provision would take effect September 1, 2013.

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.

Technology

TWDB anticipates \$84,120 of projected administrative costs for the 2014-15 biennium would be needed for technology equipment.

Local Government Impact

The bill would provide local entities with subsidized financing for projects eligible for TWDB funding. Based on a hypothetical SWIFT portfolio model provided through the House Committee on Natural Resources, it is estimated that approximately \$750 million in new assistance would be provided each year beginning in fiscal 2015. According to TWDB, this would provide for approximately 30 projects to be financed annually.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 19, 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 administration and functions of the Texas Water Development Board; authorizing the issuance of revenue bonds.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4, Committee Report 2nd House, Substituted: a negative impact of (\$4,354,390) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|---|
| 2014 | (\$1,777,668) |
| 2015 | (\$2,576,722) |
| 2016 | (\$3,640,548) |
| 2017 | (\$3,598,533) |
| 2018 | (\$3,598,533) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from <i>General Revenue Fund</i> 1 | Change in Number of State Employees from FY 2013 |
|-------------|--|---|
| 2014 | (\$1,777,668) | 9.0 |
| 2015 | (\$2,576,722) | 21.3 |
| 2016 | (\$3,640,548) | 33.6 |
| 2017 | (\$3,598,533) | 33.6 |
| 2018 | (\$3,598,533) | 33.6 |

Costs shown in tables are administrative costs estimated to support the assumed passage of either HB11, which would make an appropriation of \$2.0 billion from the Economic Stabilization Fund to the State Water Implementation Fund for Texas (SWIFT), or SJR 1, which would transfer \$2.5 billion from the Economic Stabilization Fund to the SWIFT. These administrative costs associated

with the water plan were previously included in the fiscal note for HB 11. They will no longer be reflected in the fiscal note for that legislation.

Fiscal Analysis

The bill would provide that the Texas Water Development Board (TWDB) be composed of three full-time members rather than six part-time members and meet certain requirements. The bill creates 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, to be administered by TWDB and to be used to finance projects in the state water plan. The funds could consist of money transferred or deposited by law; the proceeds of any fee or tax imposed by the state; other revenue dedicated by the Legislature; and investment and interest earned on the balance of the funds. The SWIFT may receive money transferred to the fund under a bond enhancement agreement (BEA). The SWIRFT may receive the proceeds from the sale of certain bonds as well as money disbursed to the fund from the SWIFT.

The SWIFT would be held by the Texas Treasury Safekeeping Trust Company (TTSTC) for, and in the name of, TWDB. The TTSTC may charge fees consistent with other fees it charges for investment management services from earnings of the SWIFT. TWDB may direct the TTSTC to disburse money from the SWIFT not more than twice annually, pursuant to BEAs in amounts determined by TWDB for the support of general obligation bonds or revenue bonds, the proceeds of which could be deposited to the SWIRFT, the Water Infrastructure Fund, the Rural Water Assistance Fund, the State Participation Account, or the Agricultural Water Conservation Fund.

The SWIFT must be disbursed through a BEA for debt service payments on or security provisions of authorized TWDB general obligation or revenue bonds. Of money disbursed from the SWIFT during a five-year period between adoption of state water plans, TWDB must undertake to apply not less than: 10 percent to support projects that are for rural political subdivisions or agricultural water conservation; and 20 percent to support projects for water conservation or reuse, including agricultural water conservation in certain statistical areas of the state.

TWDB may direct the TTSTC to enter into BEAs to support the financing or refinancing of projects included in the state water plan which may be pledged for the payment of revenue and general obligation bonds, including TWDB's constitutionally-authorized bonds under Article III, Sections 49-d-9 and 49-d-11 of the Texas Constitution. A BEA may also be entered into for not self-supporting bonds issued before September 1, 2013.

The bill would require TWDB to prioritize state water plan projects for the purpose of providing financial assistance, based on certain criteria. Regional water planning groups would also prepare a draft prioritization of projects and submit it to TWDB by June 1, 2014 and a final prioritization by September 1, 2014. The prioritization applies to a regional water plan due January 5, 2016.

The bill would also create the SWIFT Advisory Committee consisting of seven members, and require the Committee to 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 bill would require TWDB to adopt rules providing for the use of the SWIFT, including criteria for project funding and the manner for prioritizing projects. The bill would require that 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. Additionally, the bill would require TWDB to post certain related

information on its website.

SWIRFT money may be used without further appropriation 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 principal and interest payments. 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 amends sections of the Texas Water Code relating to engineering plans and certain related practices.

Methodology

TWDB estimates costs of approximately \$2.4 million in the 2014-15 biennium to transform TWDB from its current composition to three full-time members. The analysis assumes three new full-time board members would be paid \$150,000 per fiscal year, based upon commissioner compensation at the Texas Commission on Environmental Quality and the Public Utility Commission. Each member would be supported by an executive assistant paid \$53,061 per fiscal year and a program specialist paid \$85,603 per fiscal year. Together, salaries (\$865,992), related employee benefits (\$257,546), and operating expenses (\$51,100) would cost \$1.2 million each fiscal year. One-time start up costs in fiscal year 2014 for office space build-out, furniture, and equipment for new personnel would be \$91,730.

TWDB reports that the creation of the SWIFT and adoption of related rules could be absorbed within existing agency resources. Assuming the passage of either HB11 or SJR1, which would provide funding for the SWIFT from the Economic Stabilization Fund, the agency would incur costs of approximately \$1.9 million for program administration for the 2014-15 biennium. TWDB reports that the difference in potential SWIFT funding of \$2 billion or \$2.5 billion would not change the total program administration costs necessary to accomplish related provisions of the bill. This analysis assumes these costs would be paid from the General Revenue Fund as payment of administrative expenses is not an allowable use of SWIFT under provisions of the bill. 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. Potential savings to the General Revenue Fund from this provision cannot be determined at this time and as such are not reflected in the tables above.

TWDB would require \$511,300 in fiscal year 2014 for bond counsel services and cost increases in Regional Planning grants for prioritization of projects in the current and upcoming State Water Plan. In fiscal year 2015, an additional \$1.4 million to fund 12.3 FTEs would be required to administer funds, manage the increased loan portfolio, and provide project review and technical assistance. Included in the \$1.4 million is \$250,000 for bond counsel services and increased Regional Planning grant costs. Specific staff would include: Financial Analysts (2.3 FTE) for loan portfolio management, application review and loan closings; Accountants (1.6 FTE) for loan closings, financial management and reporting; Financial Examiner (0.8 FTE) to provide technical assistance and monitor the financial stability of underlying borrowers; Program Specialist (1.0) for general project oversight and preparation of water loss audits; Engineer II (1.8 FTE) for engineering review of projects during application and after commitment; Natural Resource Specialist (0.8 FTE) to provide environmental review of projects; Engineering Specialist (2.4 FTE) to conduct field inspections during the construction phase of the project; and, other

support staff including an Attorney III (0.8 FTE) and Contract Specialist III (0.8 FTE) to review contracts and payments.

Provisions related to TTSC are anticipated to be absorbed within the earnings of the new fund and not have a significant fiscal impact. 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, 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. According to the Comptroller of Public Accounts, the fiscal impact of any funds potentially transferred back into the treasury cannot be estimated.

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.

Technology

TWDB anticipates \$84,120 of projected administrative costs for the 2014-15 biennium would be needed for technology equipment.

Local Government Impact

The bill would provide local entities with subsidized financing for projects eligible for TWDB funding. Based on a hypothetical SWIFT portfolio model provided through the House Committee on Natural Resources, it is estimated that approximately \$750 million in new assistance would be provided each year beginning in fiscal 2015, based on provisions of SJR1. According to TWDB, this would provide for approximately 30 projects to be financed annually.

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

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

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 (RWAF), 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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 18, 2013

TO: Honorable Allan Ritter, Chair, House 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.), **Committee Report 1st House, Substituted**

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| <p>No significant fiscal implication to the State is anticipated.</p> |
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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, the Rural Water Assistance Fund, the State Participation Account in Texas Water Development Fund II, and the Agricultural Water Conservation Fund.

The SWIFT would be held by the Texas Treasury Safekeeping Trust Company (TTSTC), a division of the Comptroller of Public Accounts, in escrow and in trust for the TWDB. 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 from another fund or account. The fund may be used at the direction of the TWDB, through a bond enhancement agreement with the TTSTC, as a source of revenue and security for the payment 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 fund, 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.

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. SWIRFT money may be used to provide financing for projects included in the state water plan and to transfer money to eligible funds and accounts authorized under the bill. 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.

The bill would require that regional water planning groups prioritize projects and submit

prioritizations to the TWDB by September 1, 2014, along with their report on financing needs under Section 16.053(q) of the Water Code. The TWDB would create a stakeholders committee from representatives of the regional water planning groups to establish standards to be used by the groups in prioritizing projects. 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; one designated by the Comptroller, three members appointed by the Lieutenant Governor, and three members appointed by the Speaker of the House of Representatives. 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 as described in the bill. The Committee sunsets September 1, 2023, unless reauthorized. TWDB would be required to provide staff to assist the committee. The TWDB shall 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 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 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: 304 Comptroller of Public Accounts, 580 Water Development Board

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION
Revision 1

February 18, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4 by Ritter (Relating to the creation and funding of the state water implementation fund for Texas to assist the Texas Water Development Board in the funding of certain water-related projects.), **As Introduced**

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| <p>No significant fiscal implication to the State is anticipated.</p> |
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The bill would establish the State Water Implementation Fund for Texas (SWIFT) as a special fund outside the state treasury, to be administered without further appropriation by the Texas Water Development Board (TWDB). The bill would authorize TWDB to direct the Comptroller to transfer amounts between the SWIFT and certain other funds, including: (1) the water infrastructure fund; (2) the rural water assistance fund; (3) the state participation account in the Texas Water Development Fund II, (4) the agricultural water conservation fund, and (5) the economically distressed areas program account in Texas Water Development Fund II. SWIFT funds may also be used to finance education projects. At least 20 percent of SWIFT funds used in any biennium must be for water conservation or reuse or education.

The SWIFT may consist of monies transferred or deposited to the credit of the fund by law, proceeds of any fee or tax dedicated to the SWIFT, other revenues dedicated by the legislature for deposit to the SWIFT, and interest earned on the balance of the fund. Depending on the ultimate disposition of funds to the SWIFT, there could be a need for additional program administration funding, depending on the amount credited to the fund. Payment of administrative expenses is not an allowable use of the SWIFT under the bill's current provisions. According to TWDB, additional appropriations for program administration would be required if project financing were to exceed \$250 million per year.

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.

The bill would create the SWIFT Advisory Committee. The committee would be composed of members appointed by the speaker of the House, the lieutenant governor and the governor. The committee would be appointed as soon as practicable after the bill's effective date. The committee would submit recommendations to TWDB regarding the use of money in the fund. Committee duties under the bill are not anticipated to have any significant fiscal implication. The TWDB shall adopt rules no later than December 1, 2013, to implement provisions of the bill. The bill would take effect September 1, 2013.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 580 Water Development Board

LBB Staff: UP, SZ, ZS, PM, SD, JI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

February 15, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: IIB4 by Ritter (Relating to the creation and funding of the state water implementation fund for Texas to assist the Texas Water Development Board in the funding of certain water-related projects.), **As Introduced**

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| <p>No significant fiscal implication to the State is anticipated.</p> |
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The bill would establish the State Water Implementation Fund for Texas (SWIFT) as a special fund outside the state treasury, to be administered by the Texas Water Development Board (TWDB). The bill would authorize TWDB to direct the Comptroller to transfer amounts between the SWIFT and certain other funds, including: (1) the water infrastructure fund; (2) the rural water assistance fund; (3) the state participation account in the Texas Water Development Fund II, (4) the agricultural water conservation fund, and (5) the economically distressed areas program account in Texas Water Development Fund II. SWIFT funds may also be used to finance education projects. At least 20 percent of SWIFT funds used in any biennium must be for water conservation or reuse or education.

The SWIFT may consist of monies transferred or deposited to the credit of the fund by law, proceeds of any fee or tax dedicated to the SWIFT, other revenues dedicated by the legislature for deposit to the SWIFT, and interest earned on the balance of the fund. Depending on the ultimate disposition of funds to the SWIFT, there could be a need for additional program administration funding, depending on the amount credited to the fund. Payment of administrative expenses is not an allowable use of the SWIFT under the bill's current provisions. According to TWDB, additional appropriations for program administration would be required if project financing were to exceed \$250 million per year.

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.

The bill would create the SWIFT Advisory Committee. The committee would be composed of three members appointed by the speaker of the House, three members appointed by the lieutenant governor, and three members appointed by the governor. The committee would be appointed as soon as practicable after the bill's effective date. The committee would submit recommendations to TWDB regarding the use of money in the fund, and TWDB would be required to adopt certain rules regarding the SWIFT no later than December 1, 2013. Committee duties under the bill are not anticipated to have any significant fiscal implication. The bill would take effect September 1, 2013.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 580 Water Development Board

LBB Staff: UP, SZ, ZS, PM, JI

LEGISLATIVE BUDGET BOARD
Austin, Texas

WATER DEVELOPMENT POLICY IMPACT STATEMENT

83RD LEGISLATIVE REGULAR SESSION

March 15, 2013

TO: Honorable Allan Ritter, Chair, House 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.), **Committee Report 1st House, Substituted**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TPWD) and the Texas Commission on Environmental Quality (TCEQ) has determined that:

No Water Development Policy Impact Statement will be prepared for this bill under the provisions of *Texas Constitution*, Article 16, Section 59(d) as this bill does not create a conservation and reclamation district.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

WATER DEVELOPMENT POLICY IMPACT STATEMENT

83RD LEGISLATIVE REGULAR SESSION

February 18, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4 by Ritter (Relating to the creation and funding of the state water implementation fund for Texas to assist the Texas Water Development Board in the funding of certain water-related projects.), **As Introduced**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TPWD) and the Texas Commission on Environmental Quality (TCEQ) has determined that:

No Water Development Policy Impact Statement will be prepared for this bill under the provisions of *Texas Constitution*, Article 16, Section 59(d) as this bill does not create a conservation and reclamation district.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SZ