

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 16, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2000 by Huberty (relating to the funding of utility reliability and resiliency projects by the Texas Water Development Board; authorizing the issuance of revenue bonds.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined because the amount and timing of any appropriations, transfers, earnings, and bond proceeds associated with implementing the provisions of the bill are unknown.

The bill would amend the Utilities Code to create the State Utilities Reliability Fund (SURF) and the State Utilities Reliability Revenue Fund (SURRF). These funds would be held in the state treasury outside of the General Revenue Fund and would be administered by the Texas Water Development Board (TWDB), without further legislative appropriation, to provide financing for the weatherization of water electric and natural gas utilities; broadband providers; and power generation companies and to provide resilience during periods of high demand. Financing could be provided in any form determined by TWDB, including providing market rate loans, low-interest loans, longer repayment terms for loans, deferral of loan payments, interest rate subsidies, loan guarantees, and grants. Funds in the SURF could also be used to pay TWDB's expenses incurred in administering the fund and funds in the SURF could be transferred to other TWDB programs or funds. Funds in the SURF could not be used to subsidize or finance the construction of electric generation facilities. Funds in the SURF and SURRF would not be considered available for certification by the Comptroller of Public Accounts (CPA).

Both the SURF and SURRF would consist of legislative appropriations, any revenue source dedicated by the Legislature, and investment earnings. The SURF would also consist of money transferred to the fund from another fund or account to which money from the fund was transferred. The SURRF would also consist of proceeds from the sale of revenue bonds issued for the fund, repayments of loans made from the fund, and money disbursed to the fund from the SURF.

The SURF would be held by the Texas Treasury Safekeeping Trust Company in the name of TWDB or by another trustee selected by TWDB. The trustee or TWDB would be authorized to invest the funds with the goal of maintaining sufficient liquidity to meet the fund's cashflow needs while preserving its purchasing power. The SURF would provide transfers to the SURRF at times and in amounts determined to be necessary by TWDB. Such transfers could be used for debt service payments on or security provisions of TWDB's revenue bonds. Funds could also be transferred to other TWDB programs or funds as TWDB deems necessary. The SURF could be used to make payments under a public and private entity agreement for eligible projects.

TWDB would be required to develop a point system to prioritize applications for funding, with the highest points going to projects that would harden facilities to protect against extreme weather and fuel supply disruptions; projects that would enhance resiliency of existing facilities during periods of high demand in order to provide continuous utility service; and projects that would enhance the availability of fuel or water to existing power generation sources to provide continuous and adequate electric service during periods of high demand. TWDB would be prohibited from considering federal tax subsidies in prioritizing projects.

Funds in the SURRF would be invested as determined by TWDB, and could be invested in the state treasury

pool. Funds in the SURRF could be used to provide financing for projects that enhance the reliability and resiliency of water, electric, natural gas, broadband, and power generation infrastructure, as a source of revenue and security for the payment of principal and interest on revenue bonds, and to pay the costs associated with administering the fund. TWDB would be authorized to issue revenue bonds for the SURRF which would be secured only by revenue of the fund and which would not constitute a general obligation of the state.

The bill would create the SURF Advisory Committee, which would consist of the following seven members: one designated by the CPA, three members of the Senate appointed by the Lieutenant Governor, and three members of the House appointed by the Speaker of the House. The advisory committee would be required to submit recommendations to TWDB regarding use of funds in the SURF and SURRF. TWDB would be required to provide support to the advisory committee. The advisory committee would be subject to the Sunset Act and would be abolished on September 1, 2035, unless continued.

The bill would require TWDB to provide a biennial report to the Governor, Lieutenant Governor, and Legislature. TWDB would also be required to provide information on its website by March 1, 2022, and to update it accordingly, regarding the use of the SURF and the progress made in enhancing utility reliability, along with a description of each project funded.

The bill would require TWDB to adopt rules regarding use of funds in the SURF. The SURF Advisory Committee would be required to submit recommendations to TWDB by September 1, 2022, and TWDB would be required to propose rules by March 1, 2023.

The bill would require the Public Utility Commission (PUC), the Railroad Commission (RRC), and other state agencies to provide resources to TWDB necessary to implement the provisions of the bill, including entering into contracts between TWDB and other state agencies to provide staff or services. TWDB would be authorized to require the PUC to review and recommend for approval electric utility and broadband provider projects. TWDB would be authorized to require RRC to review and recommend for approval natural gas utility projects.

TWDB would be authorized to conduct a study of the needs, causes, and methods to address reliability and resiliency of the industries affected by the bill and would be authorized to develop a statewide reliability and resiliency plan.

The bill would require TWDB, in coordination with PUC, the Texas Commission on Environmental Quality (TCEQ), and RRC to conduct a study regarding the need for financial assistance from the state (1) to weatherize water, electric, and natural gas utilities as well as broadband provider facilities and (2) to provide adequate capacity during period of high demand for electric and natural gas utilities. The report would be due to the SURF Advisory Committee by December 31, 2022.

The bill would take effect on the date on which the related constitutional amendment which creates the SURF and the SURRF takes effect. If that amendment is not approved by voters, the bill would not take effect.

Based on information provided by TWDB and the CPA, the fiscal implications of the bill cannot be determined because the amount and timing of any appropriations, transfers, earnings, and bond proceeds that would be associated with implementing the provisions of the bill are unknown. Based on information provided by the Bond Review Board, the Sunset Advisory Commission, TCEQ, and the Office of Public Utility Counsel, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources. TWDB, PUC, and RRC have indicated that they would incur costs to fulfill the duties and responsibilities required by the bill, but the costs cannot be determined until a level of funding for the SURF and SURRF is established.

This legislation 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.

This bill would not make an appropriation, but it would establish the basis for an appropriation.

Local Government Impact

According to TWDB, if the bill were enacted and an appropriation were made for the SURF or SURRF, there may be a positive impact to political subdivisions receiving subsidized loans.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel, 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JMc, SMAT, MW, PBO