

PUBLIC COMMENTS

HB 2905

HOUSE COMMITTEE ON NATURAL RESOURCES

Hearing Date: April 27, 2021 8:00 AM

Carlos Rubinstein

Self/Invest Texas Council

Austin, TX

Mr. Chairman and Members of the Committee,

My name is Carlos Rubinstein. I am Principal of RSAH2O LLC, an environmental consulting firm focused on Texas water issues; and also a member of Invest Texas Council. I am submitting comments FOR HB 2905 by Representative Morrison.

I had the honor of serving as Chairman of the Texas Water Development Board (TWDB) from 2013 – 2015.

During my tenure on the Board, we implemented the SWIFT program.

Like many of the very favorable financing tools that the TWDB relies upon for the benefit of Texas water projects, payment on loans, even where these are from below market interest rates, are critical in calculating the viability and capacity of the program to continue to lend money in the future.

For example, when we implemented SWIFT, we modeled the amount of funds we could lend out every year and projected returns on those investments and loans to meet desired leverage positions to make the \$2 billion investment by the state result in over \$27 billion in actual water infrastructure development.

As part of those efforts, we also calculated the amount the TWDB could lend out every year in multi-year commitments for much needed projects and the impacts this would have on future year lending capacity.

During the adoption of the rules implementing SWIFT, we discussed how private capital investment in needed projects could be counted as part of the local contribution for the delivery of these large-scale projects.

As with most all funding programs from the TWDB, loans must be made to political subdivisions of the state. HB 2905 does not change that at all.

HB 2905 does however make it clear that it is permissible for a political subdivision which receives funding from the TWDB to avail themselves of the benefits of entering into a public-private-partnership (P3) for the delivery of these same projects.

Among the projected benefits would be a reduced amount of publicly supported debt that would have to be issued as a portion, if not a significant portion, of the project delivery costs could be funded by private capital investment.

This permissible cost sharing would not only help preserve debt issuance capacity at local levels; it would also assist in adding capacity to the existing TWDB programs. Since the projects would not have to rely entirely on TWDB funding, available funds from TWDB could be made available for other much needed projects that otherwise would have to wait for future year consideration due to program capacity concerns.

Additionally, while HB 2905 makes it clear that P3s are permissible for local public subdivisions which receive funding from the TWDB for water projects, the bill does not mandate the utilization of a P3.

Each local entity could weigh its best project delivery option that best meet its needs.

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For all of the reasons stated, I respectfully submit these comments in support of HB 2905.

Carlos Rubinstein, Principal
RSAH2O, LLC
April 26, 2021

Perry L. Fowler
Texas Water Infrastructure Network (TXWIN)
Austin, TX

My name is Perry Fowler and I am the Executive Director of TXWIN. On behalf of TXWIN I would like to respectfully note our opposition to HB 2905. Our members build water infrastructure facilities across the state of Texas. This legislation is largely unnecessary.

First, Texas government code 2267 establishes the clear authority and process for PPP's. If government or private entities desire to seek out or enter into a P3 there is a process in place and clear rules for doing so. Further the intent of a P3 is to harness private capital to finance and construct projects. This legislation does not contemplate such things as acquiring and improving aging and underutilized state facilities to be privately financed and managed such as the construction just north of the Texas Capitol building or state hospital. This legislation takes funds allocated for water projects intended for public benefit and places them in competition with entities who are supposed to bring private capital to the table not be subsidized by the Texas Water Development Board.

There is role for the private sector to play in these projects, however in our view the TWDB should not have its financial capacity redirected to finance projects that supposed to be privately financed, constructed and operated. This seems counterintuitive and would no doubt lead to administrative issues that would unnecessarily complicate funding programs at the TWDB. We agree that we should have all the tools available to build, finance and construct water projects in Texas, but this legislation is robbing Peter to Paul. The whole notion of a PPP is that the private entity invests capital takes on risk, and provides a public service that generates revenue and there is a profit incentive to do so.

There is a federal program called WIFIA with the EPA that effectively does what this legislation contemplates. ZERO Texas entities have applied for this funding. That is largely the case because TWDB, through SWIFT and other programs make a lot more sense and public owners tapping into these state resources receive the benefit and innovation that comes from competition rather than a privately negotiated deal.

This legislation has numerous negative implications and is largely unnecessary. Finally, I would add that we do have members with these capabilities but they also do not support this legislation for the very simple reason that has already been stated which is that if a private entity were to tap into and be subject to the contracting and other administrative requirements of the TWDB you are effectively introducing unnecessary regulatory burdens and process which would unnecessarily complicate projects which are supposed to be executed by a private entity.

Again, we appreciate the intent of the author but we respectfully urge committee members to oppose this legislation.

I am available for additional information at plf@txwin.org or (512)810-3969.

Ron Simmons
Invest Texas Council
AUSTIN, TX

Ron Simmons testimony in support of HB 2905. Thank you for this opportunity on behalf of the Invest Texas Council – a policy-oriented collaborative of stakeholders founded to champion public-private partnerships (P3s) across economic sectors, and advance policies supporting private sector investment in infrastructure projects.

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Texas' population is projected to grow by more than 1,000 people per day – from 29.7 million in 2020 to approximately 51.5 million by 2070. To keep pace with water supply and infrastructure demands, we must remember to look beyond traditional funding and the issuance of public debt.

Studies show Texas will need \$63 billion in new project funding to keep pace with drinking water needs, with an expected \$26.8 billion funding gap. Additionally, a report by the American Society of Civil Engineer's recently gave our existing flood control and wastewater infrastructure low C's and D's.

Local governments need all the tools in the toolbox to promote efficiency and guarantee cost structure – including the use of P3s.

HB 2905 simply clarifies that cities, water supply corporations, and other political subdivisions can contract with a private partner to construct and maintain projects listed in the State Water Plan or those eligible for financing under the Flood Infrastructure Fund.

HB 2905 is needed to dispel the misconception that private capital in needed projects is a disqualifier from participation in state loan programs.

Thank you for your consideration.

The Honorable Ron Simmons, Invest Texas Council.

Patrick Brophey

North Texas Commission

Irving, TX

The NTC supports HB 2905