

RESOLUTION ANALYSIS

C.S.H.J.R. 169
By: Clardy
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The projected capital costs for the water supply projects and strategies identified within the 2022 State Water Plan prepared by the Texas Water Development Board totals \$80 billion over the next 50 years. In the meantime, federal estimates for repairing and rehabilitating aging, deteriorating water and wastewater systems total over \$55 billion over the next 20 years. Given the growing magnitude of these costs, and the importance of water infrastructure to the continued economic growth and vitality of this state, Texas needs a long-term investment strategy for the development of water supplies and infrastructure. Accordingly, C.S.H.J.R. 169 proposes a constitutional amendment creating the Texas Water Fund for the purpose of financing water infrastructure projects.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 169 proposes an amendment to the Texas Constitution to create the Texas Water Fund as a special fund in the state treasury outside the general revenue fund. Money in the fund is administered by the Texas Water Development Board (TWDB) and may be used only as provided by general law by the TWDB. The resolution provides the following with respect to the fund:

- the TWDB may establish separate accounts in the fund as necessary to administer the fund or authorized projects;
- the legislature by general law may authorize the TWDB to issue bonds and enter into related credit agreements that are payable only from all revenues available to the fund;
- the TWDB must provide written notice to the Legislative Budget Board (LBB) before issuing a revenue bond pursuant to the resolution's provisions or entering into a related credit agreement that is payable from revenue deposited to the fund's credit and must provide a copy of the proposed bond or agreement to the LBB for approval;
- the proposed bond or agreement is considered to be approved unless the LBB issues a written disapproval not later than the 21st day after the date on which LBB staff receives the submission.

C.S.H.J.R. 169 establishes that the fund consists of the following:

- money transferred or deposited to the fund from state sales and use tax revenue as provided by the resolution;

- appropriations made to the fund by the legislature;
- gifts and grants, including grants from the federal government and other organizations, made to the fund;
- all interest, dividends, and other fund income;
- the proceeds from the sale of bonds, including revenue bonds issued under the resolution's provisions by the TWDB for the purpose of providing money for the fund; and
- repayments of loans made from the fund.

The resolution authorizes money from the fund to be used as provided by general law for the purpose of making grants or loans for water infrastructure projects and disbursing money to another fund or account administered by the TWDB.

C.S.H.J.R. 169 requires the legislature by general law to provide for the manner in which the fund's assets may be used, subject to the limitations provided by the resolution, and authorizes the legislature by general law to provide for the fund's costs to be paid from the fund. The resolution requires the TWDB, in each fiscal year in which amounts become due under the revenue bonds or agreements authorized by the resolution's provisions, to set aside from revenue deposited to the fund's credit in that fiscal year an amount that is sufficient to pay the following:

- the principal of and interest on the bonds that mature or become due during the fiscal year; and
- any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

C.S.H.J.R. 169 establishes that any obligations authorized by general law to be issued by the fund's administrator pursuant to the resolution's provisions are special obligations payable solely from amounts in the fund. In addition, the resolution does the following:

- prohibits obligations issued by the TWDB pursuant to such provisions from being a constitutional state debt payable from the state's general revenue;
- prohibits any dedication or appropriation of revenue to the fund's credit from being modified so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds; and
- establishes that money in the fund is dedicated by the constitution for purposes of the constitutional limit on the rate of growth of appropriations.

The resolution provides that its provisions are intended only to establish a basic framework for the fund and are not to be a comprehensive treatment of the fund. The resolution authorizes the legislature by law to implement and effectuate the design and objects of those provisions, and to delegate duties, responsibilities, functions, and authority to the TWDB as the legislature considers necessary.

C.S.H.J.R. 169 requires the comptroller of public accounts, in each state fiscal year beginning with the 2024 fiscal year, to deposit to the fund's credit \$250 million of the net revenue derived from the imposition of the state sales and use tax on the sale, storage, use, or other consumption in Texas of taxable items under the Limited Sales, Excise, and Use Tax Act that exceeds the amount of \$30.5 billion of that revenue coming into the treasury. The legislature, by adoption of a resolution approved by a record vote of two-thirds of the members of each house of the legislature, may direct the comptroller to reduce that deposited amount. The comptroller may be directed to make that reduction only in the state fiscal year in which the resolution is adopted, or in either of the following two state fiscal years, and by an amount or percentage that does not result in a reduction of more than 50 percent of the amount that would otherwise be deposited to the fund in the affected state fiscal year.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

C.S.H.J.R. 169 differs from the introduced in minor or nonsubstantive ways by conforming to certain drafting conventions.