

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 18, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB28 by Perry (Relating to financial assistance provided and programs administered by the Texas Water Development Board.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined because the amounts and timing of any appropriations; depository interest; loan repayments; and gifts, grants, or donations for the New Water Supply for Texas Fund, Texas Water Fund, and the Statewide Water Public Awareness Account are unknown at this time.

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

The bill would amend the Water Code to establish three new accounts to be administered by the Texas Water Development Board (TWDB): the New Water Supply for Texas Fund, the Texas Water Fund, and the Statewide Water Public Awareness Account. The bill would require TWDB to use the New Water Supply for Texas Fund for projects that develop new sources of water supply, use the Texas Water Fund to transfer money to other TWDB funds and accounts for various projects, ensuring that a portion of that money transferred is used for certain purposes, and use the Statewide Water Public Awareness Account to develop, administer, and implement the Statewide Water Public Awareness Program. Recipients of financial assistance from the New Water Supply for Texas Fund or the Texas Water Fund would also be required to submit water conservation plans consistent with the requirements of Water Code section 16.4021.

New Water Supply for Texas Fund

The New Water Supply for Texas Fund would be a special fund in the state treasury outside of the General Revenue Fund. TWDB would be required to adopt rules to use the fund to finance projects that will lead to the acquisition or creation of seven million acre-feet of new water supplies by December 31, 2033. The fund may only be used to provide financial assistance to political subdivisions for water supply projects that develop or create new sources of water supply. Additionally, the fund would be permitted to make transfers into to the State Water Implementation Fund for Texas (SWIFT), the Texas Water Development Fund II (DFund II), and the Water Bank Account.

The effective date for the New Water Supply for Texas Fund provisions would be September 1, 2023.

Texas Water Fund

The Texas Water Fund would be a special fund in the state treasury outside of the General Revenue Fund. The fund may only be used to disburse money to the following other TWDB funds: the Water Assistance Fund (WAF), the New Water Supply for Texas Fund, the State Water Implementation Fund for Texas (SWIFT), the State Water Implementation Revenue Fund for Texas (SWIRFT), the Clean Water and Drinking Water State Revolving Funds (SRFs), the Rural Water Assistance Fund (RWF), the Statewide Water Public Awareness Account, the Financial Assistance Account of the Texas Water Development Fund II (DFund II), and the State Participation Account of DFund II. The fund would be permitted to transfer to, and restore money transferred to, these funds and accounts, and those funds or accounts would be permitted to accept any transfer

from the fund. The Texas Treasury Safekeeping Trust Company (TTSTC) would hold and invest money in the fund. The TTSTC would manage assets of the fund, and reasonable expenses of managing the fund's assets would be paid from the fund.

TWDB by resolution may make transfers from the fund, and disbursements from the fund could only be made upon approval of a project application. TWDB would be required to ensure that a portion of the money disbursed from the fund is used for: water or wastewater infrastructure projects in rural political subdivisions, municipalities with a population of less than 150,000, and economically distressed areas, prioritized by risk or need; water infrastructure projects for which all federal or state permitting has been substantially completed as determined by TWDB; the statewide water public awareness program; water conservation strategies; and water loss mitigation projects.

The SWIFT Advisory Committee would oversee use of the fund. The bill also modifies the composition of the committee. At least annually, the committee would be required to submit comments and recommendations to TWDB regarding the use of money in the fund and to review the overall operation, function, and structure of the fund, and may adopt rules to facilitate this process. The committee would be prohibited from recommending specific projects for consideration for receipt of financial assistance.

TWDB would be required to adopt rules providing for the use of money in the fund. The rules would be required to include that recipients of financial assistance from the fund would be required to submit water conservation plans. TWDB may use the fund to pay the reasonable expenses of managing the fund.

The effective date of the Texas Water Fund provisions would be January 1, 2024, but only if the constitutional amendment authorizing the legislature to provide for the creation of the fund to assist in financing water projects in the state is approved by the voters.

Statewide Water Public Awareness Account and Program

The bill would redesignate a program within Chapter 16 of Water Code and rename the program from the Statewide Water Conservation Public Awareness Program to the Statewide Water Public Awareness Program. The bill also makes a conforming change for Water Conservation Advisory Council to monitor the effectiveness of the renamed program. The program is designed for TWDB to support existing local and regional water education or awareness programs.

The bill would create the Statewide Water Public Awareness Account within the General Revenue Fund. The account would be used to develop, administer, and implement the Statewide Water Public Awareness Program. This account would consist of transfers; gifts, grants, and donations; proceeds from sales of educational or public awareness materials; and other sources of revenue legislatively dedicated to the fund. TWDB could invest, reinvest, and direct investment of the account.

The bill would expand the use of the RWAF so that money in the fund for assistance and outreach purposes are not restricted to only being used for obtaining financing. It would also allow rural political subdivisions to use RWAF funding to obtain financing from other TWDB funds and accounts.

The bill would require TWDB to adopt rules no later than January 1, 2024, that establish a technical assistance program for retail public utilities to conduct water audits and to apply for financial assistance from TWDB to mitigate the water loss of a utility system. TWDB may contract or partner with other entities to implement the program. TWDB would be required to post on its website information including: compiled information from water audits, measures taken by retail public utilities to reduce water loss, and providing details on how participating retail public utilities are utilizing financial assistance provided by the program.

The effective date for the statewide water public awareness account and program, RWAF, and technical assistance program provisions of the bill would be September 1, 2023.

Based on information provided by TWDB and the Comptroller of Public Accounts, the fiscal impact cannot be determined because the amounts and timing of any appropriations; depository interest; loan repayments; and gifts, grants, or donations for the new funds are unknown at this time. The bill would establish new responsibilities for TWDB, but the agency has indicated those responsibilities could be absorbed using existing

resources. However, if a large appropriation were made to either fund, TWDB indicates it would require additional FTEs, resources to update existing technology systems, and resources to contract for professional services to manage the additional responsibilities. An additional appropriation to any fund is not considered for the purposes of this analysis.

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.

Local Government Impact

The bill could have a positive fiscal impact on political subdivisions that receive grants or low interest loans.

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

LBB Staff: JMc, KDw, MW, AJL, CMA, SZ