

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 21, 2023

TO: Honorable Charles Perry, Chair, Senate Committee on Water, Agriculture, & Rural Affairs

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.), **Committee Report 1st House, Substituted**

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 and the Texas Water Fund 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 two new accounts to be administered by the Texas Water Development Board (TWDB), the New Water Supply for Texas Fund and the Texas Water Fund. The bill would require TWDB to use the Water Supply for Texas Fund for projects that develop new sources of water supply, and use the Texas Water Fund to transfer money to other TWDB funds and accounts for various projects, ensuring that a portion of that money is used for certain projects. Recipients of financial assistance from either fund would also be required to submit water conservation plans.

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 per year of new water supplies by December 31, 2033. The fund may only be used to provide financial assistance to political subdivisions or grants to institutions and research entities to develop new sources of water supply. TWDB would be prohibited from providing financial assistance from the fund if the fund balance is less than \$50,000,000.

The effective date for the 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 (RWAF), the Texas Water Development Fund (DFund I), and the Texas Water Development Fund II (DFund II). Money in the fund could be invested as determined by TWDB, and the fund could be managed and invested by the Comptroller or a corporate trustee on behalf of and as directed by TWDB.

The fund would be subject to legislative appropriation 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: projects to prevent or repair water main failure in rural political subdivisions and municipalities with a population of less than 150,000 prioritized by risk, water infrastructure

projects for which all federal or state permitting has been completed, the statewide water conservation public awareness program, and water conservation strategies for new residential construction.

The SWIFT Advisory Committee would oversee use of the fund. 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.

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

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.

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 RWAF and technical assistance program provisions 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 either 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 low interest grants or loans.

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

LBB Staff: JMc, SZ, MW, AJL