

SUBJECT: Consolidating bond authority within Texas Water Development Fund II

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Counts, Walker, Cook, Culberson, R. Lewis, Moffat, Puente

0 nays

2 absent — Corte, King

SENATE VOTE: On final passage, April 3 — 31-0

WITNESSES: No public hearing

BACKGROUND : Texas Water Development Fund, administered by the Texas Water Development Board (TWDB), provides for the sale of general obligation bonds to finance the construction of local and regional water projects at advantageous interest rates. Voters have given the TWDB constitutional authority to issue bonds limited to specific dollar amounts for specific purposes. The board must issue separate bonds for each purpose: water supply, water quality, flood control projects, agricultural water conservation, and state participation.

The state participation program allows the TWDB to purchase equity in water and water quality projects to help local political subdivisions optimize development of facilities. To recoup its investment, the state may lease its portion of the project to a local entity.

Up to \$250 million of the \$2.68 billion in bonds authorized for this program go to the Economically Distressed Areas Program (EDAP) as loans and grants for water and wastewater projects in specially designated areas and as state matching funds required to access \$200 million of federal funds under the Colonia Wastewater Treatment Assistance program.

TWDB Bond Authorizations
(in millions of dollars)

Programs	Amount authorized	Amount issued	Authorized but unissued
water supply and storage	\$1,040	\$878.290	\$161.71
water quality	\$740	\$406.595	\$333.405
flood control	\$300	\$59.305	\$240.695
state participation	\$400	\$23	\$377
agricultural water conservation	\$200	\$19	\$181
Totals	\$2,680	\$1,386.190	\$1,293.81*

Source: The Texas Water Development Board

*Under SB 1, the implementing legislation to SJR 17, Agricultural Water Bonds totaling \$181 million would not be combined with other authorizations, leaving a total of \$1.113 million as the amount of authorized but unissued bonds to be combined.

DIGEST:

SJR 17 would amend the Texas Constitution to consolidate existing categories of voter-approved bond authorizations into a new fund, the Texas Water Development Fund II (TWDF II). The amendment would also adjust cash flow and reserve fund requirements and eliminate a constitutional requirement that limits the board's ability to use loan repayments coming into the Agricultural Water Conservation Fund after the end of the fiscal year to make bond debt service payments on agricultural water conservation bonds.

Texas Water Development Fund II. SJR 17 would establish the TWDF II separate from the existing Texas Water Development Fund. The new fund would allow the TWDB to consolidate existing bond authorizations for

water supply, water quality, and flood control, and for state participation in the acquisition and development of water and wastewater facilities. The board could issue TWDF II bonds for any of those existing constitutional purposes, in amounts that could not exceed existing total outstanding constitutional authorizations.

Separate accounts would be established in the TWDF II for administering the state participation and EDAP programs. Remaining money would be used for any authorized purpose.

Bonds could not be issued for EDAP programs in excess of \$250 million, the established bonding limit for the EDAP program. Money not immediately committed for outstanding debt, bond enhancement agreement payments, and other obligations could be used for investment purposes. If there were not enough money to pay debt service obligations or payments under a bond enhancement agreement in the TWDF II, money would be appropriated from the state treasury to pay principal and interest on the general obligation bonds or bond enhancement payments.

TWDF II bonds could be issued to refund outstanding bonds previously issued for the existing the Texas Water Development Fund and to refund general obligations of the state under long-term contracts between the TWDB and the U.S. government or any of its agencies for the state participation program. Refunded money and assets would eventually be transferred to the appropriate account of the TWDF II. When all contractual obligations of the Texas Water Development Fund were paid, the assets of the entire fund would be transferred to the credit of the TWDF II.

The Legislature would be required to provide terms and conditions under which the TWDB could sell or lease facilities held for the state participation account as well as any unappropriated public waters of the state that may be stored in such facilities. Money from the sale or lease of these facilities would be credited to the TWDF II.

Agricultural water conservation bonds. By eliminating a constitutional provision, SJR 17 would revise the current requirement to prefund the interest and sinking fund for agricultural water conservation bonds at the end of a fiscal year for payment of the following year's debt service. The

board could use loan repayments coming to the Agricultural Water Conservation Fund's interest and sinking fund after the end of the fiscal year in order to make bond debt service payments on agricultural water conservation bonds.

Ballot language. The proposal would be presented to voters at an election on November 4, 1997. The ballot proposal would read: "The constitutional amendment relating to the authorizations for water supply, water quality, flood control, or state participation from one category of use to another category to maximize the use of existing funds and relating to more efficient operation of the bond program."

**SUPPORTERS
SAY:**

SJR 17 would forestall the need to increase Texas general obligation bond authorizations by using existing bond authorizations more efficiently. The TWDB estimates that SJR 17 would expand program capacity by approximately \$77 million per year, allowing more Texas communities access to reduced interest loans for water projects.

No additional money or purposes are being requested. Bonds could be issued more efficiently by combining categories since one bond issue could be for multiple purposes, all related to water quality or quantity. These savings would maximize the funds available to local governments for different kinds of water projects. The TWDB currently is limited to a specific dollar amount of bonds for each of the various eligible purposes and must issue separate series of bonds for each of these purposes. Once the TWDB has exhausted its authorization for any one purpose, it must request additional constitutional authority to issue bonds for that purpose even though it may have ample authority to issue bonds for other purposes.

Voters would have to approve the consolidation of funds through a constitutional amendment, so the bill would not allow the TWDB to use funds originally dedicated for something else for projects that would not meet voter approval.

The TWDB is nearing the ceiling for its water supply bond authorization at a time when water supply projects are desperately needed in many areas of the state. Almost 94 percent of water supply projects are water system improvements and expansions and water supply enhancements from existing

sources, including assistance to colonia projects. It is absurd to suggest that the TWDB would allow all or most of the money in the TWDF II to go for reservoirs.

SJR 17 would also eliminate inefficient delays in debt issuance by removing antiquated and redundant reserve fund and cash flow requirements. These requirements are far in excess of both modern industry standards and anything the TWDB would ask of its borrowers. Instead, the TWDB could use modern fund management tools, such as bond enhancement agreements and interest and currency rate swap agreements, that would be authorized by SB 1, the implementing legislation for SJR 17. Bond enhancement agreements would be required to promote the marketability, security, or creditworthiness of water financial assistance bonds. These agreements are currently authorized for other agencies and large cities in Texas.

SJR 17 would allow the TWDB to accumulate repayments from agricultural loans until the board was required to make payments on its agricultural water conservation bonds. Because of this, the board would not have to seek general revenue for such payments based on the amount of money actually available at the end of each fiscal year, which it is currently required to do.

SJR 17 would maintain a constitutional limitation on the TWDB's funding of interbasin transfers, preventing the board from financing any project that would result in removing water from the basin of origin on other than a temporary, interim basis, if that water was needed by that basin within the next 50 years.

**OPPONENTS
SAY:**

The TWDB should not be able to combine bonds that were approved by the voters for separate and specific purposes. Some special interests in the state are pushing for the state to aggressively resume building reservoirs, and consolidating separate bond authorizations would allow the TWDB to use money from bonds that were originally issued for water quality purposes to build reservoirs. Like any other state agency, the TWDB is subject to political pressure. Such pressure would be easier to resist if bond money remained specifically dedicated. Otherwise, the state runs the risk that a disproportionate amount of the money could be used for one project that would benefit few Texans.

Many Texans support water quality programs but are opposed to dam building and would never have approved bonds if they thought those bonds could ever be used to build unneeded reservoirs. It is true that the voters must approve the fund consolidation proposed by SJR 17, but since no new authorization of bonds is proposed, most voters would not really understand the consequences of fund consolidation. If the state wants more money to fund water supply and reservoir projects, it should be required to ask the voters directly to approve money for those purposes.

The TWDB should not be allowed to take risks in an attempt to boost fund yields with the use of bond enhancement agreements, and the state should prohibit money from being appropriated from the state treasury to pay bond enhancement payments.

Portions of the Constitution that authorize water supply bonds to be issued now prohibit the TWDB from financing interbasin transfer projects that would remove surface water necessary to supply the basin of origin's reasonably foreseeable water requirements for the next 50 years. The TWDF II would provide money for all of the same purposes as the original authorizations but would not carry the same restrictions on the use of state funds for interbasin transfers currently included in the Constitution. Voters should have a chance to decide whether or not they want to repeal the sections imposing the 50-year limitation on interbasin transfers — it should not be repealed by default. SJR 17 should be amended to ensure that a protection in existence for over 30 years would not be eliminated and that the TWDB would not be allowed to finance interbasin transfers beyond its current authority.

NOTES:

SB 1, the implementing legislation for SJR 17, was passed by the House on second reading on May 22.