

- SUBJECT:** Using state participation account funds for certain water facilities
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Larijai Francis and Tom Tagliabue, City of Corpus Christi and Corpus Christi Aquifer Storage and Recovery Conservation District; Sarah Floerke Gouak, Lower Colorado River Authority; Scott Norman, Texas Association of Builders; Stephen Minick, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Wiley Cloud, Texas Onsite Wastewater Association; Perry Fowler, Texas Water Infrastructure Network (TXWIN); Randy Chelette; Ron Suchecki)
- Against — (*Registered, but did not testify:* Carol Birch, Public Citizen)
- On — Ken Kramer, Sierra Club - Lone Star Chapter; Bech Bruun, Texas Water Development Board; (*Registered, but did not testify:* Jessica Zuba, Texas Water Development Board)
- BACKGROUND:** The State Participation Program is a financial assistance program for water projects administered by the Texas Water Development Board (TWDB). Under the program, the TWDB may use funds from the state participation account to provide financial assistance and assume a temporary ownership interest in certain facilities, including reservoirs and water treatment facilities.
- Water Code, sec. 16.131, specifies projects authorized for funding under the state participation account. The board may not use the account to finance a project if the applicant has failed to complete a request by the executive administrator or a regional planning group for certain information, including a water infrastructure financing survey.

Sec. 16.135 requires that before the board may acquire or develop a facility, it find affirmatively that:

- it is reasonable to expect that the state will recover its investment;
- the facility's cost exceeds the current financing capabilities of the area involved, and the optimum regional development of the facility cannot be reasonably financed without state participation;
- the facility's acquisition will serve the public interest; and
- the facility to be constructed or reconstructed contemplates the optimum regional development reasonably required under the site's existing circumstances.

DIGEST: CSHB 3987 would direct the comptroller to establish a subaccount in the Texas Water Development Board (TWDB) state participation account called the state participation account II. The TWDB could transfer funds between the state participation account and the state participation account II at the board's discretion.

The TWDB could use the state participation account II to provide financial assistance to develop a desalination or aquifer storage and recovery facility under the state water plan. The board could act singly or partner with a public or private entity. The bill would not require the TWDB to adhere to a requirement that an applicant finance a portion of the cost of the facility. The TWDB could assist an applicant with securing a permit for a facility.

The board findings requirement in Water Code, sec. 16.135 would not apply to use of state participation account II to develop a facility by acquiring it, except that the TWDB first would have to find that it was reasonable to expect to recover investments in the facility and that its acquisition would serve the public interest.

The bill also would require the board to establish a point system to prioritize facilities seeking financial assistance under the state participation account II. The TWDB could not issue more than \$200 million in water financial assistance bonds from the state participation

account II.

The TWDB could not provide financial assistance under the state participation account II if the board did not use the account before September 1, 2022.

CSHB 3987 would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 3987 would create a fund within the Texas Water Development Board (TWDB) state participation account specifically to authorize the board to provide financial assistance to develop desalination and aquifer storage and recovery facilities. While the original state participation account already could fund these facilities, the bill would set up a specific fund for underground facilities that store water more effectively than large reservoirs at the surface, which are susceptible to evaporation.

The bill also would allow the TWDB to fund all of the costs for these facilities rather than just the excess capacity or the amount the applicant could not reasonably afford. This allowance would encourage both private and public entities to apply for financial assistance, expanding desalination and aquifer storage and recovery projects.

It would not be necessary for the board to make a finding that the local area could not afford to construct a water facility because the state could invest in the project and own 100 percent of the facility.

The water infrastructure financing survey required for projects under the original state participation fund is intended to estimate how much funding will be needed for water projects. Because the TWDB could act by itself to develop a project under account II, there would be no local partner to fill in the survey, and this provision would not be necessary.

It would be appropriate for the board to assist applicants in securing permits under the state participation account II because the TWDB could be a joint owner of the facility.

OPPONENTS
SAY:

CSHB 3987 contains certain provisions that would exempt state participation account II funding from important requirements. The bill would not require the TWDB to make certain findings before acquiring a facility, including a finding that the local interest could not finance the project. The board should not use state resources to fully fund and acquire a facility for which a local entity could pay.

The bill also should require an applicant to complete a request by the TWDB executive administrator or a regional planning group, including a water infrastructure financing survey. Applicants for funds under the original state participation account already must complete this survey, which is important to bolster responses and help the TWDB gather information.

Language in the bill that would authorize the board to assist an applicant with securing a permit is too broad and could be interpreted to include legal counsel, which would be inappropriate.

NOTES:

The committee substitute would differ from the filed bill in that CSHB 3987 would authorize the Texas Water Development Board to fully acquire a facility through the state participation account II and would allow the state to financially assist desalination projects using any source of brackish or salt water.

A similar bill, SB 1775 by Hinojosa, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 23.