

SUBJECT: Authorizing financial assistance for certain water supply infrastructure

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — T. King, Gámez, Kacal, Kitzman, Price, Ramos, Rogers

0 nays

4 absent — E. Thompson, Lalani, Metcalf, Zwiener

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

WITNESSES: For — Ronnie Woodruff, Brazos Port Water Authority; Brian Yarbrough, Port of Corpus Christi Authority; Blaire Parker, San Antonio Water System; Jeremy Mazur, Texas 2036; Rebecca Grande, Texas Association of Business; Mark Ellison, Texas Desalination Association; Sarah Kirkle, Texas Water Conservation Association; Perry Fowler, Texas Water Infrastructure Network; Heather Harward, Texas Water Supply Partners (*Registered, but did not testify*: Eddie Solis, Abilene Chamber of Commerce; Steven Albright, AGC of Texas- Highways, Heavy, Utilities and Industrial Branch; Craig Chick, American Council of Engineering Companies Texas; Joe Morris, Aqua Water Supply Corporation; Matt Phillips, Brazos River Authority; Buddy Garcia, Brownsville Public Utilities Board; Julie Williams, Chevron; Holly McCoy, City of Amarillo; Chandler Ludwick, ConocoPhillips; Sam Gammage, Dow; Vanessa Puig Williams, EDF; Jimmy Carlile, Fasken Oil and Ranch; Edmond McCarthy, GateHouse Water LLC; Kaitlyn Murphy, Greater Houston Partnership; Ron Simmons, Invest Texas Council; Ashley Kegley-Whitehead, Infinity Water Solutions; Tammy Embrey, Invenergy Clean Water; Christine Yanas, Methodist Healthcare Ministries; Steve Bresnen, North Harris County Regional Water Authority; Patrick Brophey, North Texas Commission; David Kelly, North Texas Municipal Water District; Brian Sledge, Northeast Texas Municipal Water District, Benbrook Water Authority; Jennifer Emerson, Port Houston; Carlos Rubinstein, RSAH2O LLC; Shauna Fitzsimmons Sledge, San Antonio River Authority; Trace Finley, Seven Seas Water Group; Andrew Wier, Simsboro Aquifer Water

Defense Fund; Jason Modglin, Texas Alliance of Energy Producers; Leah Martinsson, Texas Alliance of Groundwater Districts; Ned Muñoz, Scott Norman, Texas Association of Builders; Ashley Myers, Texas Association of Water Companies; Shea Pearson, Texas Chemical Council; Kenneth Hodges, Texas Corn Producers Association; Kyle Frazier, Texas Desalination Association; Billy Howe, Texas Farm Bureau; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Monty Wynn, Texas Municipal League; Ryan Skrobarczyk, Texas Nursery & Landscape Association; CJ Tredway, Texas Oil & Gas Association; Glenna Bruun, Texas Ports Association; Seth Juergens, Texas REALTORS; Tricia Davis, Texas Royalty Council; Mary Alice McKaughan, Texas Rural Water Association; Julie Wheeler, Travis County Commissioners Court; Heather Harward, Upper Trinity Regional Water District; Tom Glass; Nancy Mckee)

Against — Melissa Rowell

On — John Crew, Alan Friedman, Aqueduct Werks; Jennifer Walker, National Wildlife Federation; Alex Ortiz, Sierra Club; Jeff Walker, Texas Water Development (*Registered, but did not testify*: Tammy Benter, Celia Eaves, Public Utility Commission)

**BACKGROUND:** Concerns have been raised about an expected increase in water demands due to Texas' rapidly growing population alongside a projected decline of existing water supplies.

**DIGEST:** CSSB 28 would establish the New Water Supply for Texas Fund, the Texas Water Fund, and the Statewide Water Public Awareness Account to be administered by the Texas Water Development Board (TWDB).

**New Water Supply for Texas Fund.** The bill would create the New Water Supply for Texas Fund as a special fund in the state treasury that would consist of:

- money appropriated for transfer or deposit to the credit of the fund;

- money from any available source that TWDB transferred to the fund;
- depository interest allocable to the fund and other investment returns on money in the fund;
- money from gifts, grants, or donations to the fund; and
- any other fees or sources of revenue that the Legislature dedicated for deposit to the fund.

The fund would be exempt from statutory provisions concerning the use of dedicated revenue for managing treasury funds. TWDB would be required to use the fund to finance projects that led to the acquisition or creation of seven million acre-feet of new water supplies by December 31, 2033. The fund could be used to:

- provide financial assistance to political subdivisions to develop water supply projects that created new water sources for the state, except for maintenance or operation expenses of certain water supply projects;
- make transfers for such financial assistance to the State Water Implementation Fund for Texas or to the Texas Water Development Fund II; and
- make transfers to the water bank account only for the acquisition or transfer of water originating outside the state.

A loan made from the fund could provide for repayment terms of up to 30 years, at TWDB's discretion. Interest or principal from the repayment of the loan would have to be deposited to the fund. The fund could provide financial assistance to certain qualifying infrastructure projects. The bill would establish additional procedures on the distribution of financial assistance, including factors that TWDB would be required to consider when evaluating an application for financial assistance. An application would have to comply with statutory water conservation plan requirements.

**Texas Water Fund.** The bill would establish the Texas Water Fund as a special fund in the state treasury outside the general revenue fund. The

fund would consist of:

- money from any source transferred or deposited to the credit of the fund by general law;
- any other revenue that the Legislature dedicated to the fund;
- investment earnings and interest earned on amounts credited to the fund;
- money from gifts, grants, or donations to the fund; and
- money returned from any authorized transfer.

Money deposited to the credit of the Texas Water Fund or transferred from the fund for authorized purposes would be subject to criteria developed by TWDB and to general law. TWDB could use the fund to pay necessary and reasonable expenses of its administration. The bill would require TWDB to ensure that a portion of the money transferred was used for:

- water or wastewater infrastructure projects, with priority for certain risk or need factors;
- projects for which all required state or federal permitting had been substantially completed;
- the statewide water public awareness program; and water conservation strategies.

The fund could be used only to transfer money to:

- the water assistance fund;
- the New Water Supply for Texas Fund;
- the State Water Implementation Fund for Texas;
- the State Water Implementation Revenue Fund for Texas;
- a revolving fund established for financial assistance for water pollution control;
- the rural water assistance fund;
- the statewide water public awareness account;
- the Texas Water Development Fund II water financial assistance

- account; and
- the Texas Water Development Fund II state participation account.

TWDB could not transfer money from the fund into any such fund or account for an authorized purpose until the application for the applicable project had been approved.

The bill would require money and investments in the fund to be kept and held for TWDB, and would prohibit the comptroller from using the fund for certification of bills containing appropriations. The fund would be invested as determined by TWDB, and would be kept and maintained by or at the direction of TWDB.

Money in the fund could be managed by TWDB, the comptroller, or a corporate trustee for and on behalf of TWDB. If the money was managed by a corporate trustee, TWDB would be authorized to invest the money by an order, resolution, or rule. The fund could be invested with the state treasury pool if managed by the comptroller. The bill would set out certain additional provisions regarding the fund's management.

The bill would require the State Water Implementation Fund for Texas Advisory Committee to submit comments and recommendations to TWDB regarding the use of money in the fund and review overall operation, function and structure of TWF at least annually. The committee also could provide comments and recommendations to TWDB on any matter, and could adopt the rules needed to administer and implement its responsibilities under the bill. The committee would be prohibited from recommending specific projects for Texas Water Fund financial assistance.

The bill would authorize TWDB to adopt rules concerning the use of money in the fund, which would have to include a requirement that each recipient of Texas Water Fund assistance submit a water conservation plan to TWDB.

**Assistance program.** The bill would require TWDB to establish a

program to assist certain public water utilities in conducting required water audits and in applying for financial assistance to mitigate the utility's water loss. The board could provide for the implementation of the program by contracting or partnering with other entities. In the provision of such assistance under the program, TWDB would be required to prioritize utilities based on certain water loss, population, and integrity factors. TWDB would have to post information related to utility participation in the assistance program on its website. The bill would require TWDB to adopt rules for the program by January 1, 2024.

**Statewide Water Public Awareness Account.** CSSB 28 would establish the Statewide Water Public Awareness Account as an account in the general revenue fund consisting of:

- money appropriated to TWDB;
- money transferred from other funds available to TWDB;
- money from gifts or grants to the account from any source;
- proceeds from the sale of educational or public awareness materials, publications, and other items deposited to the credit of the account; and
- interest earned on the investment of money in the account and depository interest allocable to the account.

The account could be used by TWDB to develop, administer, and implement the statewide public awareness program. TWDB could invest available money in the account as provided by applicable law. The account would be exempt from certain provisions relating to the use of dedicated revenue for purposes of managing treasury funds.

The bill also would rename the Statewide Water Conservation Public Awareness Program to the Statewide Water Public Awareness Program.

The bill would take effect September 1, 2023, except for provisions regarding the Texas Water Fund, which would take effect January 1, 2024, only if the constitutional amendment creating the fund was approved by voters.

NOTES:

According to the Legislative Budget Board, 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.

SB 28 is the enabling legislation for SJR 75 by Perry, which is also on the daily House calendar for second reading consideration today.