

BILL ANALYSIS

Senate Research Center
83R5459 SLB/SMH/JXC-D

S.B. 4
By: Fraser
Natural Resources
2/8/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the 2012 State Water Plan, the population of Texas is expected to increase 82 percent between the years 2010 and 2060, growing from 25.4 million to 46.3 million people. Water demand in Texas is projected to increase by only 22 percent, from about 18 million acre-feet per year in 2010 to about 22 million acre-feet per year in 2060.

S.B. 4 creates the State Water Implementation Fund of Texas (SWIFT), a fund outside of the state treasury, to allow for funding the State Water Plan. The bill restructures the Texas Water Development Board (TWDB) to a three member full-time board, which will create a prioritization for funding the projects in the State Water Plan. The bill also calls for an advisory committee to make recommendations on the use of the money in SWIFT to the TWDB.

As proposed, S.B. 4 amends current law relating to the administration and functions of the Texas Water Development Board.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 2.01 (Section 15.436, Water Code) and SECTION 2.08 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ADMINISTRATION OF THE TEXAS WATER DEVELOPMENT BOARD

SECTION 1.01. Amends Section 6.052(a), Water Code, to provide that the Texas Water Development Board (TWDB) is composed of three, rather than six, members who are appointed by the governor with the advice and consent of the senate.

SECTION 1.02. Amends Section 6.053, Water Code, by adding Subsection (d), to prohibit a person from being eligible for appointment to TWDB if the person served on TWDB on or before January 1, 2013.

SECTION 1.03. Amends Section 6.054(c), Water Code, as follows:

(c) Requires that, if the executive administrator of TWDB (executive administrator) or a member has knowledge that a potential ground for removal exists, the executive administrator is required to notify the chairman of TWDB of the potential ground. Requires the chairman of TWDB to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive administrator or another member of TWDB, if the potential ground for removal includes the chairman of TWDB, to notify the member of TWDB with the most seniority, rather than the next highest ranking officer of TWDB, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.04. Amends Section 6.056, Water Code, as follows:

Sec. 6.056. TERMS OF OFFICE. (a) Creates this subsection from existing text. Provides that members of TWDB hold office for staggered terms of six years, with the

term of one member expiring February 1 of each odd-numbered year, rather than with the terms of two members expiring every two years. Provides that each member holds office until a successor is appointed and has qualified. Makes a nonsubstantive change.

(b) Prohibits a person appointed to TWDB from serving for more than two six-year terms.

SECTION 1.05. Amends Section 6.059, Water Code, as follows:

Sec. 6.059. New heading: CHAIRMAN OF THE BOARD. Requires the governor to designate one member as chairman of TWDB to serve at the will of the governor. Deletes existing Subsection (a) designation and existing Subsection (b) requiring members of TWDB to elect a vice-chairman every two years and requiring TWDB to fill a vacancy in the office of vice-chairman for the remainder of the unexpired term.

SECTION 1.06. Amends Sections 6.060(a) and (b), Water Code, as follows:

(a) Requires TWDB to hold regular meetings and all hearings at times specified by TWDB order and entered in its minutes, rather than requires TWDB to meet at least once every other month on a day and at a place within the state selected by it, subject to recesses at the discretion of TWDB. Authorizes TWDB to hold special meetings at the times and places in the state that TWDB decides are appropriate for the performance of its duties. Requires the chairman of TWDB or the TWDB member acting for the chairman to give the other members reasonable notice before holding a special meeting. Deletes existing text authorizing the chairman or two board members to call a special meeting at any time by giving notice to the other members.

(b) Requires the chairman, rather than requires the chairman or in his absence the vice-chairman, to preside at all meetings of TWDB. Authorizes the chairman to designate another TWDB member to act for the chairman in the chairman's absence.

SECTION 1.07. Amends Section 6.061, Water Code, as follows:

Sec. 6.061. New heading: FULL-TIME SERVICE. Requires each member of TWDB to serve on a full-time basis. Deletes existing text entitling a member to receive an amount as provided by the General Appropriations Act for each day he serves in the performance of his duties, together with travel and other necessary expenses.

SECTION 1.08. Amends Section 6.103, Water Code, as follows:

Sec. 6.103. EXECUTIVE ADMINISTRATOR. Requires the chairman of TWDB to appoint a person to be the executive administrator to serve at the will of TWDB. Prohibits a person from being eligible for appointment as the executive administrator if the person served in that capacity on January 1, 2013. Requires the executive administrator to report to the chairman of TWDB.

SECTION 1.09. (a) Requires the governor to appoint the initial members of TWDB not later than September 1, 2013. Requires the governor, in appointing the initial members of TWDB, to appoint one person to a term expiring February 1, 2015, one to a term expiring February 1, 2017, and one to a term expiring February 1, 2019.

(b) Provides that the terms of the current TWDB members expire September 1, 2013.

SECTION 1.10. (a) Requires the chairman of TWDB to appoint the executive commissioner of TWDB not later than October 1, 2013.

(b) Provides that the person currently serving as the executive administrator of TWDB ceases to serve in that capacity on the date a new executive administrator is appointed under Subsection (a) of this section.

ARTICLE 2. STATE WATER IMPLEMENTATION FUND FOR TEXAS

SECTION 2.01. Amends Chapter 15, Water Code, by adding Subchapter G, as follows:

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

Sec. 15.431. DEFINITIONS. Defines "advisory committee" and "fund" in this subchapter.

Sec. 15.432. STATE WATER IMPLEMENTATION FUND FOR TEXAS. (a) Provides that the state water implementation fund for Texas (fund) is a special fund outside the state treasury to be administered without further appropriation by TWDB under this subchapter and rules adopted by TWDB under this subchapter.

(b) Provides that the fund consists of money transferred or deposited to the credit of the fund by law, the proceeds of any fee or tax imposed by this state that the legislature by statute dedicates for deposit to the credit of the fund, any other revenue that the legislature by statute dedicates for deposit to the credit of the fund, and interest earned on the balance of the fund.

Sec. 15.433. USE OF FUND. (a) Authorizes TWDB to use money in the fund only to provide financing for projects included in the state water plan that are authorized under Subchapter Q (Water Infrastructure Fund) or R (Rural Water Assistance Fund) of this chapter, Subchapter E (Acquisition and Development of Facilities), Chapter 16, or Subchapter J (Agricultural Water Conservation Bond Program) or K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17.

(b) Provides that of the money from the fund used by TWDB in any state fiscal biennium, not less than 10 percent must be used to finance projects described by Subsection (a) that are designed to serve rural areas and not less than 10 percent must be used to finance projects described by Subsection (a) for water conservation or reuse.

(c) Requires TWDB to undertake to use money from the fund to provide financing for projects described by Subsection (a) in each regional water planning area in this state. Requires TWDB to prioritize projects in each regional water planning area for purposes of this subsection.

(d) Prohibits TWDB from using money in the fund or money transferred from the fund to another fund or account to make a grant.

Sec. 15.434. TRANSFERS TO OR FROM OTHER FUNDS OR ACCOUNTS. (a) Authorizes TWDB to direct the comptroller of public accounts of the State of Texas (comptroller) to transfer amounts from the fund to the credit of:

(1) the water infrastructure fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter Q;

(2) the rural water assistance fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter R;

(3) the Texas Water Development Fund II state participation account to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter E, Chapter 16;

(4) the agricultural water conservation fund to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter J, Chapter 17; or

(5) the Texas Water Development Fund II economically distressed areas program account to be used for the purposes provided by Section 15.433 related to projects included in the state water plan that are authorized under Subchapter K, Chapter 17.

(b) Provides that if the comptroller transfers an amount from the fund to the credit of another fund or account as provided by this section, TWDB is authorized to direct the comptroller to transfer an amount not to exceed that amount from the other fund or account to the fund if money is available in the other fund for that purpose.

Sec. 15.435. ADVISORY COMMITTEE. (a) Provides that the State Water Implementation Fund for Texas Advisory Committee (advisory committee) is composed of nine members appointed as three members as follows: appointed by the speaker of the house of representatives, three members appointed by the lieutenant governor, and three members appointed by the governor.

(b) Requires the advisory committee to submit recommendations to TWDB regarding the use of money in the fund for use by TWDB in adopting rules under Section 15.436. Requires TWDB to give appropriate consideration to the recommendations of the advisory committee before adopting rules under that section.

(c) Requires TWDB to provide information to the advisory committee on request.

Sec. 15.436. RULES. (a) Requires TWDB, after consulting the advisory committee, to adopt rules providing for the use of money in the fund consistent with this subchapter, including rules:

(1) establishing standards for the eligibility for financing under Sections 15.433(a) and (b) of projects designed to serve rural areas, and water conservation and reuse projects; and

(2) specifying the manner for prioritizing projects for purposes of Section 15.433(c).

(b) Requires that rules adopted under Subsection (a)(2) provide for giving a higher priority to projects that meet the following criteria:

(1) the project will have a major effect across a region; or

(2) the project will serve an area that is projected to experience a high rate of population or economic growth.

SECTION 2.02. Amends Section 15.973(b), Water Code, to include money transferred from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the Water Infrastructure Fund.

SECTION 2.03. Amends Section 15.993, Water Code, to include money transferred from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the rural water assistance fund.

SECTION 2.04. Amends Section 17.895, Water Code, to include money transferred from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the agricultural water conservation fund.

SECTION 2.05. Amends Section 17.957(b), Water Code, to include money transferred from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the state participation account.

SECTION 2.06. Amends Section 17.958(b), Water Code, to include money transferred from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the economically distressed areas program accounts.

SECTION 2.07. Requires the speaker of the house of representatives, the lieutenant governor, and the governor, as soon as practicable after the effective date of this Act, to appoint the initial members of the advisory committee created under Section 15.435, Water Code, as added by this Act.

SECTION 2.08. Requires TWDB, not later than December 1, 2013, to adopt rules under Section 15.436, Water Code, as added by this Act.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2013.