

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 9, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB3 by Armbrister (Relating to the development and management of the water resources of the state, including the creation of a groundwater conservation district; imposing fees and providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Engrossed: a negative impact of (\$11,781,899) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$5,976,292)
2007	(\$5,805,607)
2008	(\$5,922,347)
2009	(\$6,396,387)
2010	(\$5,935,037)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	(\$5,976,292)	43.3
2007	(\$5,805,607)	47.3
2008	(\$5,922,347)	50.3
2009	(\$6,396,387)	50.3
2010	(\$5,935,037)	50.3

Fiscal Analysis

Article 1--Environmental Flows

The bill would provide that existing water rights could be converted temporarily or permanently to use for environmental flow protection. The bill would replace the Study Commission on Water for Environmental Flows to the Texas Environmental Flows Commission (TEFC). The TCEQ would continue to provide staff support to the modified TEFC. The TEFC would develop flow regime recommendations based on a priority schedule by river basin. The bill would create the Texas Environmental Flows Science Advisory Committee (TEFSAC) and the Basin and Bay Area Stakeholders Committee (BBASC). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the

TEFC, TEFSAC, and the BBASC, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the TEFSAC and the Bay and Basin Expert Science Teams (BBEST) for meeting expenses. It would also allow the TWDB to pay contract costs for technical assistance to TFEC advisory committees and the BBESTs and costs incurred by political subdivisions designated as representatives of the BBASC.

Article 2--Conjunctive Management Water Policy

The bill would provide for the TWDB to enter into contracts with political subdivisions designated as representatives of groundwater management area councils to pay for all or part of groundwater management area planning costs. The bill also would require the TWDB to provide one or more employees to assist each groundwater management council.

The bill would require the TWDB to develop and implement a statewide water conservation awareness program to educate about water conservation. The bill also would require the TWDB to review water conservation plans and annual reports submitted by water utilities.

The bill would create a licensing program for the sale or lease of water rights in excess of 100 acre-feet per year. The Water Development Board would be authorized to collect a fee to recover associated costs, and the TCEQ would be responsible for violations. In addition, the bill would allow the TCEQ to issue permits and amendments for the injection and recovery for the beneficial use of waste or pollutants into aquifers.

The bill would make groundwater management area councils responsible for approving groundwater management plans, instead of the TWDB as under current law. The bill also makes several requirements for groundwater management area councils, and it would require the TCEQ and the TWDB to provide technical assistance to the councils. The TWDB would also be responsible for reviewing the councils' plans and documents produced by the councils.

Persons would be authorized to petition the TCEQ to appoint dispute resolution panels for disputes relating to groundwater conservation districts. The bill would allow the TWDB to provide legal and technical assistance to a dispute panel concerning a petition filed by a person against a district.

The bill would create a statewide groundwater conservation district for all state-owned land not within the boundaries of a confirmed groundwater conservation district on August 31, 2007. The commissioners of the TCEQ would serve as the board of directors of the statewide district. The TCEQ would be required to public notice of the creation of the district in the newspaper in each county with land in the proposed district.

Article 3--Financing of Water Projects

The bill would create a water conservation and development fee to be collected by retail public utilities, remitted to the Comptroller, and deposited to the credit of the Water Infrastructure Fund (WIF) No. 302. However, the rate of the fee would not be set by the legislature, and the fee would not be assessed, until certain conditions provided in the bill are met, including how to establish and implement the fee as determined by the Legislative Oversight Committee on Water Financing created by the bill. The bill also would provide for various uses of money in the WIF.

Article 4--Special District Creation

The bill would create the Victoria County Groundwater Conservation District.

Article 5--Edwards Aquifer Authority

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management.

Methodology

Article 1--Environmental Flows

To provide technical support to the committees established in Article 1 of the bill, complete hydrological modeling, geographic information systems applications related to instream flows, and to evaluate economic factors, 6.0 additional FTEs and related costs are expected to be needed by the TCEQ. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees established in Article 1, as well as funding for costs incurred by the TEFSAC, BBEST, as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency expects that the number of FTEs needed would increase from 2.0 in fiscal year 2006 to 8.0 FTEs in fiscal year 2008. The TWDB expects costs not related to FTEs to total between \$675,000 to \$1,025,000 per fiscal year for duties prescribed in Article 1.

No significant fiscal implications to the TPWD are anticipated to result from the bill's provisions relating to the agency's coordination with newly created councils and committees.

Article 2--Conjunctive Management Water Policy

The TCEQ anticipates that it would need a total of 10.0 FTEs to implement the requirements of Article 2 of the bill relating to assisting the 16 groundwater management area councils regarding groundwater availability and performance of dispute resolution on groundwater management issues. In addition, 2.0 FTEs and \$162,200 per year would be needed to support the newly created Statewide Groundwater Conservation District, including new permitting procedures, newspaper publication, data collection, modeling, public education, outreach and planning.

The TWDB anticipates that it will need at least 14.0 additional FTEs and related costs to provide each groundwater management district area with technical assistance. In addition, one manager and administrative assistant would be added at the agency's headquarters to coordinate the groundwater district area technical assistance program for a total of 16.0 FTEs. The TWDB expects to need 0.8 additional FTE to provide necessary data collection, studies, and analysis of the state's water conservation programs and to provide related reports.

The bill's provisions authorizing an expedited and alternative amendment process for regional water plans is expected to result in a savings of \$100,000 out of the General Revenue Fund.

For the public awareness program, this estimate assumes there would be no significant fiscal impact until such time that the legislature would establish the water conservation and development fee. At that time, the cost of the program could range from \$5.8 million to \$9.9 million per fiscal year. However, these costs are not included in this estimate.

The review of water conservation plans and annual reports for an estimated 800 water supply systems is expected to result in the TWDB needing 1.0 additional FTE and related costs. An additional 0.5 FTE is expected to be needed for the bill's water rights sales licensing provisions, with related costs being recovered through fees authorized by the bill.

A total of 5.0 additional FTEs in fiscal year 2006 and 6.0 additional FTEs in fiscal year 2007 are expected to be needed by the TWDB to establish groundwater management area councils, provide technical assistance administrative oversight to the councils, and develop and provide database support for duties of the TWDB prescribed in Article 2 of the bill.

Article 3--Financing of Water Projects

No significant fiscal implication is expected as a result of the bill's creation of a water conservation and development fee, nor as a result of changes to the uses of funds in the WIF, until such time as

the fee would be established by the legislature and assessed by the TCEQ. At that time, the fiscal impact would depend on the fee rate established and the number of persons paying the fee.

No significant fiscal implication is expected as a result of the bill's creation of the Legislative Oversight Committee on Water Financing.

Article 4--Special District Creation

No significant fiscal implications to the state are expected from the bill's creation of the Victoria County Groundwater Conservation District.

Article 5--Edwards Aquifer Authority

No significant fiscal implications to the state are expected as a result of changes to law regarding the Edwards Aquifer Authority.

Summary--Total Administrative/Operating/FTEs by Agency

Total administrative costs to the TCEQ in implementing the bill would be \$1.8 million in fiscal year 2006 and \$1.4 million per fiscal year in subsequent years. The agency would require 18.0 additional FTEs.

Total operating costs to the TWDB would be as follows:

Fiscal year 2006: operating costs--\$4.2 million; FTEs--25.3

Fiscal year 2007: operating costs--\$4.4 million; FTEs--29.3

Fiscal year 2008: operating costs--\$4.5 million; FTEs--32.3

Fiscal year 2009: operating costs--\$5.0 million; FTEs--32.3

Fiscal year 2010: operating costs--\$4.6 million; FTEs--32.3

Local Government Impact

Councils and committee created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Because Article 4 of the bill regarding the creation of the Victoria County Groundwater Conservation District would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Since Article 5 of the bill could raise overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department, 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, WK, ZS, TL