

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 11, 2007**

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

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

**IN RE: SB3** by Averitt (Relating to the development , management, and preservation of the water resources of the state; providing penalties. ), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB3, Committee Report 2nd House, Substituted: a negative impact of (\$4,051,609) through the biennium ending August 31, 2009.

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
2008	(\$1,996,560)
2009	(\$2,055,049)
2010	(\$2,146,918)
2011	(\$2,070,818)
2012	(\$1,821,018)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/(Cost) from <i>GAME, FISH, WATER SAFETY AC 9</i>	Change in Number of State Employees from FY 2005
2008	(\$1,996,560)	(\$224,739)	14.1
2009	(\$2,055,049)	(\$219,054)	15.1
2010	(\$2,146,918)	(\$219,978)	16.3
2011	(\$2,070,818)	(\$219,978)	16.3
2012	(\$1,821,018)	(\$220,902)	16.3

**Fiscal Analysis**

**Article 1 - Environmental Flows**

The bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks

and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, 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 SAC and the BBEST for meeting expenses. It would also allow the TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by political subdivisions designated as representatives of the stakeholder committees.

## **Article 2 - Water Conservation and Planning**

The bill would require the TWDB to develop and implement a statewide water conservation awareness program to educate residents of the state about water conservation. The bill also would require the TWDB to review water conservation plans and annual reports submitted by water utilities. It would also authorize expedited amendment processes for regional water plans, and it directs the TWDB to perform compliance reviews of certain water conservation plans and annual reports.

The bill directs the TWDB in coordination with the Far West Texas Regional Water Planning Group to conduct a study on the impacts of climate change on surface water supplies from the Rio Grande and to submit a report to the Legislature no later than December 31, 2008 on these impacts. As part of this study, the TWDB is to convene a conference within the Far West Texas regional water planning area to review current analyses regarding the impact of climate change on surface water supplies in other states and to make recommendations for the incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan.

The bill also includes several private property protection provisions associated with designated reservoir sites.

## **Article 3 - Unique Reservoir Sites and Sites of Unique Ecological Value**

As authorized by Section 16.051(g), Water Code, the legislature would, through passage of the bill, designate 15 specific sites as having unique value for the construction of a dam and reservoir. In so doing, no state agency nor political subdivision of the state may obtain a fee title or an easement that would significantly prevent the construction of a reservoir on any of the designated sites.

The bill would also create the Study Commission on Region C Water Supply and would require the TWDB to provide staff support and funding for professional services and for the reimbursement of commission-related duties.

## **Article 4 - Legislative Joint Interim Committee**

The bill creates a joint interim oversight committee, co-chaired by the Chairmen of the Senate and House Committees on Natural Resources, to review financing of water infrastructure projects and funding for water programs administered by state agencies. The remaining membership of the joint oversight committee will consist of three appointees of the Lieutenant Governor and three appointees of the Speaker of the House.

## **Methodology**

### **Article 1--Environmental Flows**

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 per fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the GR-Dedicated Water Resource Management Account No. 153 would not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.3 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the Water Assistance Fund No. 480 would not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

This fiscal note assumes that existing studies and information will be used by SAC and the BBEST. Funds are not included to do additional studies through grant funds.

## **Article 2 - Water Conservation and Planning**

No significant fiscal implications are expected to the TCEQ as a result of provisions in Article 2 of the bill. It is anticipated that any costs associated with the regulation of irrigation systems can be absorbed by the TCEQ.

The TWDB estimates that they will need 2.0 FTEs for the public awareness program to provide oversight and administration of the program at a cost of approximately \$270,000 for the 2008-09 biennium. The agency anticipates needing two FTEs for this function in subsequent fiscal years as well. This cost would be paid out of the General Revenue Fund. Providing a public awareness campaign on the scale of the Texas Department of Transportation's "Don't Mess with Texas" campaign, could cost as much as \$9 million for the biennium. However, these costs are not included in this estimate. Instead it is assumed that the TWDB would use existing resources to begin developing a statewide water conservation public awareness campaign.

The TWDB anticipates needing 1 additional FTE and related costs to review the water conservation plans and annual reports of retail water supply systems, as required in Article 2, for a total of approximately \$125,000 for the 2008-09 biennium. The agency anticipates needing one FTE for this function in subsequent fiscal years as well. This cost would be paid out of the General Revenue Fund.

According to TWDB, the cost to perform the Rio Grande River climate change impact study would be approximately \$25,000 and the cost to convene the associated conference would be \$5,000 in fiscal year 2008. It is anticipated that these costs can be absorbed within existing agency resources.

## **Article 3 - Unique Reservoir Sites and Sites of Unique Ecological Value**

Regarding the unique reservoir sites, expenses would occur only if a dam or reservoir were to be built at any of the designated sites; otherwise, no fiscal implications are anticipated.

The TWDB does not anticipate needing additional FTEs to carry out the provisions associated with the Study Commission on Region C Water Supply, there will be a cost, however, of \$500,000 for the 2008-09 biennium for the agency to contract with outside entities to carry out the studies required by the bill. It is anticipated that the all additional costs associated with the new Commission including the reimbursement of commission members and the production of the required report can be absorbed within existing agency resources.

## **Article 4 - Legislative Joint Interim Committee**

No significant fiscal implications to the state are expected from the creation of this legislative joint interim committee.

## **Local Government Impact**

Councils and committees 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.

The bill could reduce or eliminate a local government's ability to divert water under a water right issued after September 1, 2007 for municipal use on a case by case basis. The fiscal impacts to a local government would depend on the cost of obtaining water supply from another source.

The bill would prevent local governments from obtaining a fee title or an easement that would significantly prevent the construction of a reservoir or adversely affect a unique river or stream segment designated by the bill. Potential impacts cannot be determined or quantified at this time, however.

The surcharge the bill would establish on water impounded in a reservoir would have a significant fiscal impact to local governments. The holder of a water rights permit for construction of a reservoir would have to pay fees annually for ten years to each political entity that assessed ad valorem taxes on property within the footprint of the reservoir site. The bill also requires each political subdivision to pay the property owner an encumbrance payment not less than 2.5 times the ad valorem taxes imposed in the tax year that precedes the year in which the payment is made on the property for which the payment is made. The amount of local fiscal impact associated with these provisions cannot be determined at this time.

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

**LBB Staff:** JOB, JF, DB, SD, WK, ZS, TL