

BILL ANALYSIS

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C.S.H.B. 4
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2011, Texas experienced what was reported to be the worst one-year drought on record. Although drought is not new to Texas, the 2011 drought highlighted the importance of long-range planning to meet the state's water needs. Over the next 50 years, both population and water demand in the state is estimated to significantly increase, while existing water supply is projected to decrease. The Water For Texas 2012 State Water Plan includes many unique water supply strategies. These strategies include conservation, drought management, surface water projects, groundwater resource projects, water reuse, desalination, and a variety of other management solutions.

The estimated total capital cost of the 2012 State Water Plan, representing the capital cost of all water management strategies recommended in the 2011 regional water plans, is more than \$50 billion. Based on surveys conducted as part of the planning process, water providers will need significant support through state financial assistance to implement these recommended water strategies. If state financial assistance is not provided to implement these regional water management strategies, during a repeat of the 2011 drought of record, the state could suffer significant economic losses and the majority of Texas' population could face a critical water shortage.

C.S.H.B. 4 attempts to address these needs by creating the state water implementation fund for Texas and the state water implementation revenue fund for Texas in order to assist the Texas Water Development Board in providing low-cost financial assistance to local and regional water providers for projects currently identified in the 2012 State Water Plan. The fund is intended to provide adequate and meaningful funding through financial assistance and other incentives in the development of new water supply strategies outlined in the state water plan, as identified and requested by regional planning groups across the state of Texas.

C.S.H.B. 4 amends current law relating to the administration and functions of the Texas Water Development Board and authorizes the issuance of revenue bonds.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 2.02 (Sections 15.432, 15.438, 15.439, 15.472, and 15.473, Water Code), SECTION 2.07 (Section 17.183, Water Code) and SECTION 2.19 of this bill.

Rulemaking authority is expressly granted to the State Water Implementation Fund for Texas Advisory Committee in SECTION 2.01 (Section 15.438, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ADMINISTRATION OF THE TEXAS WATER DEVELOPMENT BOARD

SECTION 1.01. Amends Sections 6.052(a) and (b), Water Code, as follows:

- (a) Provides 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. Requires one member to have experience in the field of engineering, one

member to have experience in the field of public or private finance, and one member to have experience in the field of law or business.

(b) Requires the governor to make the appointments in such a manner that the members reflect the diverse geographic regions and population groups of this state and do not have any conflicts of interest prohibited by state or federal law, rather than in such a manner that each member is from a different section of the state and has no conflict of interest prohibited by state or federal law.

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, Water Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires the executive administrator of TWDB (executive administrator), if the executive administrator or a member has knowledge that a potential ground for removal exists, 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.

(d) Authorizes the governor, with the advice and consent of the senate, to remove a TWDB member from office as provided by Section 9 (Removal of Public Officer by Governor with Advice and Consent of Senate), Article XV (Impeachment), Texas Constitution.

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 this state selected by it, subject to recesses at the discretion of TWDB. Authorizes TWDB to hold special meetings at the times and places in this 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 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.

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 TWDB to appoint the executive commissioner of TWDB, under Section 6.103, Water Code, as amended by this Act, 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. FUNDING OF WATER PROJECTS

SECTION 2.01. (a) Provides that the legislature recognizes the importance of providing for this state's future water supply needs. Provides that the purpose of this article is to ensure that proper funding in the form of meaningful and adequate financial assistance is available to provide an adequate water supply for the future of this state.

(b) Provides that, to accomplish that purpose, this article creates the state water implementation fund for Texas (fund). Provides that the fund is intended to serve as a water infrastructure bank in order to enhance the financing capabilities of TWDB under constitutionally created programs and revenue bond programs. Provides that the fund provides a source of revenue or security for those programs and provides a cash flow mechanism under which money used in TWDB programs flows back to the fund to provide protection for the fund's corpus. Provides that money in the fund will be available immediately to provide support for low-interest loans, longer repayment terms for loans, incremental repurchase terms for projects in which the state owns an interest, and deferral of loan payments. Prohibits money in the fund from being used to make grants. Provides that, in addition, this article creates the state water implementation revenue fund for Texas for use in managing revenue bonds issued by TWDB that are supported by the state water implementation fund for Texas.

SECTION 2.02. Amends Chapter 15, Water Code, by adding Subchapters G and H, as follows:

SUBCHAPTER G. STATE WATER IMPLEMENTATION FUND FOR TEXAS

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

Sec. 15.432. FUND. (a) Provides that the fund is a special fund outside the state treasury to be used by TWDB, without further legislative appropriation, for the purpose of implementing the state water plan as provided by this subchapter. Authorizes TWDB to establish separate accounts in the fund. Provides that the fund and the fund's accounts are kept and held by the Texas Treasury Safekeeping Trust Company (trust company) for and in the name of TWDB. Provides that TWDB has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and TWDB rules.

(b) Authorizes money deposited to the credit of the fund to be used only as provided by this subchapter.

(c) Provides that the fund consists of money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at TWDB's discretion as authorized by law; the proceeds of any fee or tax imposed by this state that by statute is dedicated 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; investment earnings and interest earned on amounts credited to the fund; and money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by Section 15.435.

Sec. 15.433. MANAGEMENT AND INVESTMENT OF FUND. (a) Requires the trust company to hold and invest the fund, and any accounts established in the fund, for and in the name of TWDB, taking into account the purposes for which money in the fund may be used. Authorizes the fund to be invested with the state treasury pool.

(b) Provides that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund.

(c) Provides that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. Authorizes the trust company, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) Authorizes the trust company to charge fees to cover its costs incurred in managing and investing the fund. Requires that the fees be consistent with the fees the trust company charges other state and local governmental entities for which it provides investment management services. Authorizes the trust company to recover fees it charges under this subsection only from the earnings of the fund.

(e) Requires the trust company annually to provide a written report to TWDB and to the State Water Implementation Fund for Texas Advisory Committee (advisory committee) with respect to the investment of the fund. Requires the trust company to contract with a certified public accountant to conduct an independent audit of the fund annually and to present the results of each annual audit to TWDB and to the advisory committee. Provides that this subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321 (State Auditor), Government Code.

(f) Requires the trust company to adopt a written investment policy that is appropriate for the fund. Requires the trust company to present the investment policy to the investment advisory board established under Section 404.028 (Investment Advisory Board), Government Code. Requires the investment advisory board to submit to the trust company recommendations regarding the policy.

(g) Requires TWDB to annually provide to the trust company a forecast of the cash flows into and out of the fund. Requires TWDB to provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) Requires the trust company to disburse money from the fund as directed by TWDB. Requires TWDB to direct disbursements from the fund on a semiannual schedule specified by TWDB and not more frequently than twice in any state fiscal year.

(i) Provides that an investment-related contract entered into under this section is not subject to Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code.

Sec. 15.434. USE OF FUND; PAYMENTS TO AND FROM OTHER FUNDS OR ACCOUNTS. (a) Requires the trust company, at the direction of TWDB, to make disbursements from the fund to another fund or account pursuant to a bond enhancement agreement authorized by Section 15.435 in the amounts TWDB determines are needed for debt service payments on or security provisions of TWDB's general obligation bonds or revenue bonds, after considering all other sources available for those purposes in the respective fund or account.

(b) Requires TWDB, of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, to undertake to apply not less than:

(1) 10 percent to support projects described by Section 15.435 that are for rural political subdivisions as defined by Section 15.992 (Definitions) or agricultural water conservation; and

(2) 20 percent to support projects described by Section 15.435 that are designed for water conservation or reuse, including agricultural water conservation in metropolitan statistical areas with a population of 325,000 or less or counties that are outside the boundaries of any metropolitan statistical area.

Sec. 15.435. BOND ENHANCEMENT AGREEMENTS. (a) Provides that a bond enhancement agreement entered into under this section is an agreement for professional services. Requires that a bond enhancement agreement contain terms that are consistent with Section 15.433(h), and the agreement, including the period covered by the agreement and all other terms and conditions of the agreement, is required to be approved by TWDB. Provides that an obligation to disburse money from the fund in accordance with a bond enhancement agreement is a special obligation of TWDB payable solely from designated income and receipts of the fund or an account in the fund established by TWDB, as determined by TWDB. Provides that an obligation to disburse money from the fund in accordance with a bond enhancement agreement does not constitute indebtedness of the state.

(b) Authorizes TWDB, to facilitate the use of the fund for the purposes of this subchapter, to direct the trust company to enter into bond enhancement agreements to provide a source of revenue or security for the payment of the principal of and interest on general obligation bonds, including bonds issued under Section 49-d-9 (Issuance of Additional General Obligation Bonds) or 49-d-

11 (Continuing Authorization for Additional Bonds for Texas Water Development Fund II), Article III (Legislative Department), Texas Constitution, or revenue bonds issued by TWDB to finance or refinance projects included in the state water plan if the proceeds of the sale of the bonds have been or will be deposited to the credit of the state water implementation revenue fund for Texas; the water infrastructure fund; the rural water assistance fund; the Texas Water Development Fund II state participation account; or the agricultural water conservation fund.

(c) Authorizes TWDB, if the trust company enters into a bond enhancement agreement under Subsection (b), to direct the trust company to make disbursements from the fund to another fund or account for the support of bonds the proceeds of which are used to provide financial assistance in the form of:

(1) a loan bearing an interest rate of not less than 50 percent of the then-current market rate of interest available to TWDB;

(2) a loan to finance a facility under repayment terms similar to the terms of debt customarily issued by the entity requesting assistance but not to exceed the lesser of the expected useful life of the facility or 30 years;

(3) a deferral of loan repayment, including deferral of the repayment of principal and interest or accrued interest;

(4) incremental repurchase terms for an acquired facility, including terms for no initial repurchase payment followed by progressively increasing incremental levels of interest payment, repurchase of principal and interest, and ultimate repurchase of the entire state interest in the facility using simple interest calculations; or

(5) a combination of the methods of financing described by Subdivisions (1)-(4).

(d) Authorizes TWDB to direct the trust company to enter into bond enhancement agreements with respect to bonds issued by TWDB before September 1, 2013, only if:

(1) those bonds otherwise satisfy the requirements of Subsections (b) and (c);

(2) the proceeds of those bonds were or are required to be used only for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 (State Water Plan: Drought, Conservation, Development, and Management; Effect of Plan) and 16.053 (Regional Water Plans); and

(3) general revenue of the state was appropriated before September 1, 2013, for the payment of debt service on those bonds.

(e) Authorizes TWDB to direct the trust company to enter into bond enhancement agreements with respect to refunding bonds issued by TWDB to refund bonds issued by TWDB the proceeds of which have been or are to be used for projects included in the state water plan and which otherwise satisfied the requirements of Subsections (b) and (c).

(f) Prohibits TWDB from directing the trust company to enter into a bond enhancement agreement with respect to bonds issued by TWDB the proceeds of which have been or are to be used to make grants.

(g) Prohibits TWDB from directing the trust company to enter into a bond enhancement agreement with respect to bonds issued by TWDB the proceeds of which are authorized to be used to provide financial assistance to an applicant if at the time of the request the applicant has failed to submit or implement a water conservation plan in accordance with Section 11.1271 (Additional Requirements: Water Conservation Plans) or satisfactorily complete a request by the executive administrator or a regional water planning group for information relevant to the project for which the financial assistance is sought, including a water infrastructure financing survey under Section 16.053(q) (relating to requiring regional planning groups to examine the financing needed to implement the water management strategies and projects and to report to TWDB certain information).

(h) Prohibits TWDB from approving a bond enhancement agreement with respect to bonds issued by TWDB unless the agreement contains a provision to the effect that if the trust company makes a disbursement under the bond enhancement agreement from the fund to the credit of another fund or account as provided by Section 15.434(a), TWDB is required to direct the comptroller to transfer an amount not to exceed that amount from the fund or account receiving the payment back to the fund if:

(1) money is available in the surplus balance in the fund or account for that purpose; and

(2) the money transferred back to the fund will not cause general obligation bonds that are payable from the fund or account receiving the payment to no longer be self-supporting for purposes of Section 49-j(b) (defining "state debt payable from the general revenue fund), Article III, Texas Constitution.

(i) Provides that, for purposes of Subsection (h)(1), the surplus balance of a fund or account that receives a disbursement from the fund under a bond enhancement agreement is the amount of money on deposit in the fund or account, as determined by TWDB, that is attributable to the general obligation bonds or revenue bonds that are the subject of the bond enhancement agreement, including money received from the sale or other disposition of TWDB's rights to receive repayment of financial assistance, money received from the sale, transfer, or lease of an acquired facility, money received from the sale of water associated with an acquired facility, and related investment earnings, that exceeds the amount required to pay annual debt service on the bonds and any other amounts specified in the resolution or other proceedings authorizing the bonds and any related obligations.

(j) Requires TWDB to submit each bond enhancement agreement and the record relating to the agreement to the attorney general for examination as to the validity of the agreement. Requires the attorney general, if the attorney general finds that the agreement has been made in accordance with the constitution and other laws of this state, to approve the agreement and the comptroller is required to register the agreement. Requires that the agreement, if the agreement is not submitted at the same time that the bonds to which it relates are submitted, be treated as a public security solely for the purposes of Section 1202.004 (Fee for Examination by Attorney General), Government Code.

(k) Provides that, after a bond enhancement agreement has been approved and registered as provided by Subsection (j), the agreement is valid and is incontestable for any cause.

Sec. 15.436. PRIORITIZATION OF PROJECTS BY REGIONAL WATER PLANNING GROUPS. (a) Requires each regional water planning group to prioritize projects in its respective regional water planning area for the purposes of Section 15.435.

Requires a regional water planning group, at a minimum, to consider the following criteria in prioritizing each project:

(1) the decade in which the project will be needed;

(2) the feasibility of the project, including the availability of water rights for purposes of the project and the hydrological and scientific practicability of the project;

(3) the sustainability of the project, taking into consideration the life of the project; and

(4) the cost-effectiveness of the project, taking into consideration the expected unit cost of the water to be supplied by the project.

(b) Requires each regional water planning group, in prioritizing projects, to include projects that meet long-term needs as well as projects that meet short-term needs.

(c) Requires TWDB to create a stakeholders committee composed of the presiding officer or a person designated by the presiding officer of each regional water planning group to establish standards to be used by the regional water planning groups in prioritizing projects under this section. Authorizes the stakeholders committee to establish different standards to be used by different regional water planning groups as necessary to account for different circumstances affecting each region. Requires that standards established under this subsection be approved by TWDB. Requires TWDB to consult the stakeholders committee from time to time regarding regional prioritization of projects.

(d) Requires each regional water planning group to submit to TWDB the prioritization developed by the group under this section together with the group's respective regional water plan developed and submitted under Section 16.053.

Sec. 15.437. PRIORITIZATION OF PROJECTS BY BOARD. (a) Requires TWDB to prioritize projects included in the state water plan for the purpose of providing financial assistance under this subchapter.

(b) Requires TWDB to establish a system for prioritizing projects for which financial assistance is sought from TWDB. Requires that the system provide for giving priority to projects in the following order:

(1) projects that develop new water supplies, provide for the conservation or reuse of existing supplies, or provide for the conveyance of new water supplies to a water supply system;

(2) projects for new or expanded water treatment plants to treat newly developed water supplies; and

(3) projects that meet unidentified future water supply needs.

(c) Requires that the system established under Subsection (b) incorporate the following prioritization criteria:

(1) the recommendation of the state water plan regarding timing of implementation of the project;

(2) the scope of the regional benefits of the project, considering the number of entities and the size of the population to be served by the project or other factors;

- (3) the type of state financial assistance sought for the project;
- (4) the percentage of the water supply needs of the region served by the project that will be met by the project;
- (5) the status of implementation of the project;
- (6) the amount of local funds to be used to finance the project; and
- (7) the priority given the project by the applicable regional water planning group under Section 15.436.

Sec. 15.438. ADVISORY COMMITTEE. (a) Provides that the advisory committee is composed of the following seven members:

- (1) the comptroller of public accounts of the state of Texas (comptroller), or a person designated by the comptroller;
- (2) three members of the senate appointed by the lieutenant governor, including a member of the committee of the senate having primary jurisdiction over matters relating to finance and a member of the committee of the senate having primary jurisdiction over natural resources; and
- (3) three members of the house of representatives appointed by the speaker of the house of representatives, including a member of the committee of the house of representatives having primary jurisdiction over appropriations and a member of the committee of the house of representatives having primary jurisdiction over natural resources.

(b) Requires that the following persons serve as staff support for the advisory committee:

- (1) the deputy executive administrator of TWDB who is responsible for water science and conservation or a person who holds an equivalent position at the agency, or a person designated by that person;
- (2) the deputy executive administrator of TWDB who is responsible for water resources planning and information or a person who holds an equivalent position at the agency, or a person designated by that person; and
- (3) the chief financial officer of TWDB, or a person who holds an equivalent position at the agency.

(c) Requires the advisory committee to select a nationally recognized bond counsel and financial advisor to serve as the advisory committee's independent legal counsel for the purpose of advising the advisory committee in connection with the administration of the advisory committee's duties under this section. Provides that TWDB is responsible for paying the cost of retaining a bond counsel and financial advisor and is authorized to pay the cost from the fund.

(d) Provides that an appointed member of the advisory committee serves at the will of the person who appointed the member.

(e) Requires the lieutenant governor to appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor, and the speaker of the house of representatives to appoint a co-

presiding officer of the committee from among the members appointed by the speaker.

(f) Authorizes the advisory committee to hold public hearings, formal meetings, or work sessions. Authorizes either co-presiding officer of the advisory committee to call a public hearing, formal meeting, or work session of the advisory committee at any time. Prohibits the advisory committee from taking formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(g) Provides that, except as otherwise provided by this subsection, a member of the advisory committee is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee. Provides that service on the advisory committee by a member of the senate or house of representatives is considered legislative service for which the member is entitled to reimbursement and other benefits in the same manner and to the same extent as for other legislative service.

(h) Requires the advisory committee to submit comments and recommendations to TWDB regarding the use of money in the fund for use by TWDB in adopting rules under Section 15.439 and in adopting policies and procedures under Section 15.441. Requires that the submission include:

(1) comments and recommendations on rulemaking related to the prioritization of projects in regional water plans and the state water plan in accordance with Sections 15.436 and 15.437;

(2) comments and recommendations on rulemaking related to establishing standards for determining whether projects meet the criteria provided by Section 15.434(b);

(3) an evaluation of the available programs for providing financing for projects included in the state water plan and guidelines for implementing those programs, including guidelines for providing 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) or F (Sale or Lease of Facilities), Chapter 16, or Subchapter J (Agricultural Water Conservation Bond Program), Chapter 17.

(4) an evaluation of the lending practices of TWDB and guidelines for lending standards;

(5) an evaluation of the use of funds by TWDB to provide support for financial assistance for water projects, including support for the purposes described by Section 15.435(c);

(6) an evaluation of whether premium financing programs should be established within the funds described by Section 15.435 to serve the purposes of this subchapter, especially in connection with projects described by Section 15.434(b);

(7) an evaluation of methods for encouraging participation in the procurement process by companies domiciled in this state; and

(8) an evaluation of the overall operation, function, and structure of the fund.

(i) Requires the advisory committee to review the overall operation, function, and structure of the fund at least semiannually and is authorized to provide comments and recommendations to TWDB on any matter.

(j) Authorizes the advisory committee to adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

(k) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee.

(l) Provides that the advisory committee is subject to Chapter 325 (Sunset Law), Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the advisory committee is abolished and this section expires September 1, 2023.

(m) Requires the advisory committee to make recommendations to TWDB regarding information to be posted on TWDB's Internet website under Section 15.440(b).

Sec. 15.439. RULES. (a) Requires TWDB to adopt rules providing for the use of money in the fund that are consistent with this subchapter, including rules:

(1) establishing standards for determining whether projects meet the criteria provided by Section 15.434(b); and

(2) specifying the manner for prioritizing projects for purposes of Section 15.437.

(b) Requires TWDB to give full consideration to the recommendations of the advisory committee before adopting rules under this subchapter.

Sec. 15.440. REPORTING AND TRANSPARENCY REQUIREMENTS. (a) Requires TWDB, not later than December 1 of each even-numbered year, to provide a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature regarding the use of the fund, including the use of the fund to support projects that are for rural political subdivisions or agricultural water conservation or that are designed for water conservation or reuse as required by Section 15.434(b).

(b) Requires TWDB to post the following information on TWDB's Internet website regarding the use of the fund and regularly update the information posted:

(1) the progress made in developing needed water supply statewide and for the benefit of each regional water planning area; and

(2) for each regional water planning area, a description of each project funded through bonds supported by a bond enhancement agreement entered into under Section 15.435, including the expected date of completion of the project and the current status of the project.

Sec. 15.441. POLICIES AND PROCEDURES TO MITIGATE OR MINIMIZE ADVERSE EFFECTS OF CERTAIN FEDERAL LAWS. Requires TWDB to adopt, and is authorized to amend from time to time at TWDB's discretion, policies and procedures for the purpose of mitigating or minimizing the adverse effects, if any, of federal laws and regulations relating to income taxes, arbitrage, rebates, and related matters that may restrict the TWDB's ability to freely invest all or part of the fund or to receive and retain all the earnings from the fund.

SUBCHAPTER H. STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

Sec. 15.471. DEFINITION. Provides that, in this subchapter, "fund" means the state water implementation revenue fund for Texas.

Sec. 15.472. FUND. (a) Provides that the state water implementation revenue fund (revenue fund) for Texas is a special fund outside the state treasury to be used by TWDB, without further legislative appropriation, for the purpose of providing financing for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17. Authorizes TWDB to establish separate accounts in the revenue fund. Provides that TWDB has legal title to money and investments in the revenue fund until the money is disbursed as provided by this subchapter and TWDB rules.

(b) Authorizes money deposited to the credit of the revenue fund to be used only as provided by this subchapter.

(c) Provides that the revenue fund consists of:

(1) money transferred or deposited to the credit of the revenue fund by law, including money from any source transferred or deposited to the credit of the revenue fund at TWDB's discretion as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the revenue fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the revenue fund;

(4) investment earnings and interest earned on amounts credited to the revenue fund;

(5) the proceeds from the sale of bonds, including revenue bonds issued by TWDB under this subchapter, that are designated by TWDB for the purpose of providing money for the revenue fund; and

(6) money disbursed to the revenue fund from the state water implementation fund for Texas as authorized by Section 15.434.

Sec. 15.473. MANAGEMENT AND INVESTMENT OF FUND. (a) Requires that money deposited to the credit of the revenue fund be invested as determined by TWDB. Authorizes the revenue fund to be invested with the state treasury pool.

(b) Requires that the revenue fund and any accounts established in the fund be kept and maintained by or at the direction of TWDB.

(c) Authorizes the revenue fund and any accounts established in the revenue fund, at the direction of TWDB, to be kept and held in escrow and in trust by the comptroller or a corporate trustee that is a trust company or a bank that has the powers of a trust company for and on behalf of TWDB and pending their use for the purposes provided by this subchapter may be invested as provided by an order, resolution, or rule of TWDB.

(d) Requires the comptroller or corporate trustee, as custodian, to administer the revenue fund in strict accordance with this subchapter and the orders, resolutions, and rules of TWDB.

Sec. 15.474. USE OF FUND. (a) Authorizes money in the revenue fund, except as provided by Subsection (c), to be used by TWDB only to provide financing or refinancing, under terms specified by TWDB, for projects included in the state water plan that are authorized under Subchapter Q or R of this chapter, Subchapter E or F, Chapter 16, or Subchapter J, Chapter 17.

(b) Authorizes financing or refinancing of projects described by Subsection (a) to be provided by using money in the revenue fund to:

(1) make loans to fund participants or to purchase bonds or other obligations of revenue fund participants bearing interest at a rate or rates determined by TWDB, including rates below prevailing market rates; or

(2) guarantee debt service payments on obligations of revenue fund participants, or to purchase insurance guaranteeing such payments, if TWDB determines that the guarantee or purchase will improve access to the credit market; reduce the interest cost of the obligations; or enhance the value of the assets of the revenue fund.

(c) Authorizes TWDB to use money in the revenue fund:

(1) as a source of revenue or security for:

(A) the payment of the principal of and interest on revenue bonds issued by TWDB under this subchapter or other bonds issued by TWDB if the proceeds of the bonds will be deposited in the revenue fund; or

(B) a bond enhancement agreement; or

(2) to pay the necessary and reasonable expenses of paying agents, bond counsel, and financial advisory services and similar costs incurred by TWDB in administering the revenue fund.

Sec. 15.475. ISSUANCE OF REVENUE BONDS. (a) Authorizes TWDB to issue revenue bonds for the purpose of providing money for the fund.

(b) Authorizes TWDB to issue revenue bonds to refund revenue bonds or bonds and obligations issued or incurred in accordance with other provisions of law.

(c) Provides that revenue bonds issued under this subchapter are special obligations of TWDB payable only from and secured by designated income and receipts of the revenue fund, including principal of and interest paid and to be paid on revenue fund assets or income from accounts created within the fund by TWDB, as determined by TWDB.

(d) Provides that revenue bonds issued under this subchapter do not constitute indebtedness of the state as prohibited by the constitution.

(e) Authorizes TWDB to require revenue fund participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.

(f) Requires that revenue bonds issued under this subchapter be authorized by resolution of TWDB and to have the form and characteristics and bear the designations as the resolution provides.

(g) Authorizes revenue bonds issued under this subchapter to:

(1) bear interest at the rate or rates payable annually or otherwise;

(2) be dated;

(3) mature at the time or times, serially, as term revenue bonds, or otherwise in not more than 50 years from their dates;

(4) be callable before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided by the resolution;

(5) be issued in temporary or permanent form;

(6) be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by TWDB to be the most advantageous reasonably obtainable; and

(7) be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this subchapter or may be issued without parity and secured differently than other revenue bonds.

(h) Provides that Section 17.955 (Persons Designated to Act as Agents of Board) applies to revenue bonds issued under this subchapter in the same manner as that section applies to water financial assistance bonds.

(i) Requires that all proceedings relating to the issuance of revenue bonds issued under this subchapter be submitted to the attorney general for examination. Requires the attorney general, if the attorney general finds that the revenue bonds have been authorized in accordance with law, to approve the revenue bonds, and the revenue bonds are required to be registered by the comptroller. Provides that, after the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

(j) Authorizes the proceeds received from the sale of revenue bonds issued under this subchapter to be deposited or invested in any manner and in such investments as may be specified in the resolution or other proceedings authorizing those obligations. Authorizes money in the revenue fund or accounts created by this subchapter or created in the resolution or other proceedings authorizing the revenue bonds to be invested in any manner and in any obligations as may be specified in the resolution or other proceedings.

Sec. 15.476. SUBCHAPTER CUMULATIVE OF OTHER LAWS. (a) Provides that this subchapter is cumulative of other laws on the subject, and TWDB is authorized to use provisions of other applicable laws in the issuance of bonds and other obligations and the execution of bond enhancement agreements, but this subchapter is wholly sufficient authority for the issuance of bonds and other obligations, the execution of bond enhancement agreements, and the performance of all other acts and procedures authorized by this subchapter.

(b) Authorizes TWDB, in addition to other authority granted by this subchapter, to exercise the authority granted to the governing body of an issuer with regard to the issuance of obligations under Chapter 1371 (Obligations for Certain Public Improvements), Government Code.

SECTION 2.03. Amends Section 15.973(b), Water Code, to provide that the water infrastructure fund consists of certain monies, including money disbursed to the water infrastructure fund from the state water implementation fund as authorized by Section 15.434.

SECTION 2.04. Amends Section 15.974, Water Code, by adding Subsection (b), to require TWDB to transfer back to the fund any money disbursed to the water infrastructure fund as

described by Section 15.973(b)(9) (relating to money disbursed to the fund from the state water implementation fund) if the requirements of Section 15.435 are satisfied.

SECTION 2.05. Amends Section 15.993, Water Code, as follows:

Sec. 15.993. FUND. Provides that the rural water assistance fund is a special fund in the state Treasury. Provides that the rural water assistance fund consists of certain monies, including money disbursed to the fund from the fund as authorized by Section 15.434.

SECTION 2.06. Amends Section 15.994, Water Code, by adding Subsection (i), to require TWDB to transfer back to the fund any money disbursed to the rural water assistance fund as described by Section 15.993(7) (relating to money disbursed to the state water implementation fund for Texas) if the requirements of Section 15.435 are satisfied.

SECTION 2.07. Amends Section 17.183, Water Code, as follows:

Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. (a) Creates this subsection from existing text. Requires the governing body of each political subdivision receiving financial assistance from TWDB to require that certain criteria be met in all contracts for the construction of a project including that payment of the retainage remaining due upon completion of the contract be made only after certification by the executive administrator in accordance with the rules of TWDB that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications, rather than with sound engineering principles and practices.

(b) Requires that plans and specifications submitted to TWDB in connection with an application for financial assistance include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards.

SECTION 2.08. Amends Section 17.185(a), Water Code, to authorize TWDB to inspect the construction of a project at any time to assure that the contractor is substantially complying with the approved engineering plans and specifications of the project, rather than to assure that the contractor is substantially complying with the approved engineering plans of the project and the contractor is constructing the project in accordance with sound engineering principles.

SECTION 2.09. Amends Section 17.187, Water Code, as follows:

Sec. 17.187. CERTIFICATE OF APPROVAL. Authorizes the executive administrator to consider, as grounds for refusal to give a certificate of approval for any construction contract, failure to construct the project according to approved plans and specifications or failure to comply with any term of the contract. Deletes existing text authorizing the executive commissioner to consider failure to construct the works in accordance with sound engineering principles. Makes nonsubstantive changes.

SECTION 2.10. Amends Section 17.276(c), Water Code, to delete existing text requiring TWDB, in consultation with and pursuant to agreement with the political subdivision, except as provided by Subsection (d) of this section, to determine the location, time, design, scope, and all other aspects of the construction of a sewerage system for which financial assistance is provided.

SECTION 2.11. Amends Section 17.775(c), Water Code, as follows:

(c) Provides that TWDB has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided and the amount of any such assistance. Deletes existing text requiring TWDB, in consultation with and pursuant to agreement with the political subdivision, to determine the location, time, design, scope, and all other aspects of the construction to be performed.

SECTION 2.12. Amends Section 17.853(c), Water Code, to authorize TWDB to use the Texas water resources fund only for certain purposes, including only to provide funds to the state water implementation revenue fund for Texas created under Section 15.472.

SECTION 2.13. Amends Section 17.895, Water Code, to include money disbursed to the agricultural water conservation fund from the state water implementation fund as authorized by Section 15.434 among the sources of funding for the agricultural water conservation fund.

SECTION 2.14. Amends Section 17.899, Water Code, by adding Subsection (c) to require TWDB to transfer back to the state water implementation fund for Texas any money disbursed to the agricultural water conservation fund as described by Section 17.895(6) (relating to money disbursed to the fund from the state water implementation fund for Texas) if the requirements of Section 15.435 are satisfied.

SECTION 2.15. Amends Section 17.957, Water Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that the state participation account is composed of certain monies, including money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434.

(d) Requires TWDB to transfer back to the state water implementation fund for Texas any money disbursed to the state participation account as described by Section (b)(5) of this section if the requirements of Section 15.435 are satisfied.

SECTION 2.16. Amends Section 49.153(e), Water Code, to provide that Subsection (c) (relating to prohibiting a district from executing a note for a term longer than three years) does not apply to certain notes issued and approved by certain entities, including a note issued to and approved by a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to provide financing for water and waste disposal facilities.

SECTION 2.17. Amends Section 49.181(a), Water Code, as follows:

(a) Prohibits a district from issuing bonds unless the Texas Natural Resource Conservation Commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. Provides that this section does not apply to certain bonds, including bonds issued to and approved by the Farmers Home Administration, the United States Department of Agriculture, the North American Development Bank, the Texas Water Development Board, or a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to finance such a project.

SECTION 2.18. (a) Requires the lieutenant governor and the speaker of the house of representatives, as soon as practicable after the effective date of this Act, to appoint the initial appointive members of the advisory committee as provided by Section 15.438, Water Code, as added by this Act.

(b) Provides that, notwithstanding Subsection (a) of this section and Section 15.438, Water Code, as added by this Act, if the lieutenant governor and the speaker of the house of representatives do not appoint the initial appointive members of the advisory committee as provided by Section 15.438, Water Code, as added by this Act, by December 1, 2013:

(1) the presiding officer of the committee of the senate having primary jurisdiction over natural resources and the presiding officer of the committee of the house of representatives having primary jurisdiction over natural resources serve as initial members of the advisory committee and as the initial co-presiding officers of the advisory committee;

(2) the presiding officer of the committee of the senate having primary jurisdiction over natural resources is required to appoint two members of the senate to serve as initial members of the advisory committee, including a member who meets the requirements of Section 15.438(a)(2)(A) (relating to members of the senate appointed by the lieutenant governor, including a member of the committee of the senate having primary jurisdiction over matters relating to finance), Water Code, as added by this Act; and

(3) the presiding officer of the committee of the house of representatives having primary jurisdiction over natural resources is required to appoint two members of the house of representatives to serve as initial members of the advisory committee, including a member who meets the requirements of Section 15.438(a)(3)(A) (relating to members of the house of representatives appointed by the speaker of the house of representatives, including a member of the committee of the house of representatives having primary jurisdiction over appropriations), Water Code, as added by this Act.

SECTION 2.19. (a) Requires the advisory committee, not later than September 1, 2014, to submit recommendations to TWDB on the rules to be adopted by TWDB under Sections 15.439(a)(1) and (2), Water Code, as added by this Act.

(b) Requires TWDB, not later than the later of the 90th day after the date TWDB receives the recommendations described by Subsection (a) of this section or March 1, 2015, to adopt rules under Section 15.439, Water Code, as added by this Act.

SECTION 2.20. Requires TWDB, as soon as practicable after the effective date of this Act, to create a stakeholders committee under Section 15.436(c), Water Code, as added by this Act.

SECTION 2.21. Requires the stakeholders committee created by the Texas Water Development Board under Section 15.436(c), Water Code, as added by this Act, not later than December 1, 2013, to submit the standards established by the committee under that subsection to TWDB.

SECTION 2.22. (a) Requires each regional water planning group to prepare a draft prioritization of the projects included in the regional water plan most recently adopted by the group in accordance with Section 15.436, Water Code, as added by this Act, and submit the draft prioritization of the projects to the TWDB not later than June 1, 2014. Requires TWDB to provide comments to each regional water planning group on the draft prioritization submitted by the group. Requires each regional water planning group to submit a final prioritization of the projects to TWDB not later than September 1, 2014.

(b) Provides that Section 15.436(d), Water Code, as added by this Act, applies to a regional water plan beginning with the plan that is required to be submitted to TWDB by January 5, 2016.

SECTION 2.23. Requires TWDB to post the information described by Section 15.440(b), Water Code, as added by this Act, on TWDB's Internet website not later than March 1, 2014.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2013.