

## **BILL ANALYSIS**

C.S.S.J.R. 1  
By: Williams  
Appropriations  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2011, Texas experienced what was reported to be the worst one-year drought on record. The 2011 drought highlighted the importance of long-range planning to meet the state's water needs. The *Water For Texas 2012 State Water Plan* projects that over the next 50 years, both population and water demand in the state will increase significantly, while existing water supply will decrease. The 2012 State Water Plan includes numerous regionally identified strategies to develop the several million acre-feet of water supply per year required to meet these increasing demands.

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, the state during similar drought conditions could suffer significant economic losses and the majority of Texas' population could face a critical water shortage.

C.S.S.J.R. 1 seeks 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 2012 State Water Plan, as identified and requested by regional planning groups across the state of Texas.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.J.R. 1 proposes an amendment to the Texas Constitution to create the state water implementation fund for Texas as a special fund in the state treasury outside the general revenue fund. The resolution requires money in the fund to be administered, without further appropriation, by the Texas Water Development Board (TWDB) or the TWDB's successor in function and to be used for the purpose of implementing the state water plan that is adopted by the TWDB or its successor in function as required by general law. The resolution authorizes the establishment of separate accounts in the fund as necessary to administer the fund or authorized projects.

C.S.S.J.R. 1 authorizes the legislature by general law to authorize the TWDB or its successor in function to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds of the TWDB or its successor in function, the proceeds of

which are used to finance state water plan projects. The resolution requires bond enhancement agreements to be payable solely from the fund, provided that they do not exceed the fund's capacity to fully support such agreements; authorizes any amount paid under such an agreement to be repaid as provided by general law, provided that any repayment does not cause certain general obligation bonds that are payable from the fund or account to be no longer self-supporting; and prohibits payments under such an agreement from being a constitutional state debt payable from the state's general revenues.

C.S.S.J.R. 1 authorizes the legislature by general law to authorize the TWDB or its successor in function to use the fund to finance, including by direct loan, water projects included in the state water plan. The resolution requires the TWDB or its successor in function to provide written notice to the Legislative Budget Board (LBB) or the LBB's successor in function before each bond enhancement agreement or loan agreement has been executed by the TWDB or its successor in function and to provide a copy of the proposed agreement to the LBB or the LBB's successor in function for approval. The resolution requires the proposed agreement to be considered approved unless the LBB or its successor in function issues a written disapproval not later than the 21st day after the date on which staff of the LBB or its successor in function receives the submission.

C.S.S.J.R. 1 sets out the fund's composition and requires the legislature by general law to provide for the manner in which the fund's assets may be used, subject to the limitations provided by the resolution. The resolution authorizes the legislature by general law to provide for costs of investment of the fund to be paid from the fund and requires the TWDB or its successor in function, each fiscal year and as provided by general law, to set aside from amounts on deposit in the fund an amount that is sufficient to make payments under bond enhancement agreements that become due during that fiscal year.

C.S.S.J.R. 1 prohibits the modification of any dedication or appropriation of amounts on deposit in the fund so as to impair any outstanding obligation under a bond enhancement agreement secured by a pledge of those amounts unless provisions have been made for a full discharge of the bond enhancement agreement. The resolution establishes that money in the fund is dedicated by the constitution for purposes of certain constitutional restrictions on appropriations and that an appropriation from the economic stabilization fund to the credit of the state water implementation fund for Texas is an appropriation of constitutionally dedicated state tax revenues for purposes of those restrictions on appropriations.

C.S.S.J.R. 1 creates the state water implementation revenue fund for Texas as a special fund in the state treasury outside the general revenue fund. The resolution requires money in the revenue fund to be administered, without further appropriation, by the TWDB or its successor in function and to be used for the purpose of implementing the state water plan that is adopted by the TWDB or its successor in function as required by general law. The resolution authorizes the establishment of separate accounts in the revenue fund as necessary to administer the revenue fund or authorized projects.

C.S.S.J.R. 1 authorizes the legislature by general law to authorize the TWDB or its successor in function to issue bonds and enter into related credit agreements that are payable from all revenues available to the revenue fund. The resolution requires the TWDB or its successor in function to provide written notice to the LBB or the LBB's successor in function before issuing a bond or entering into a related credit agreement that is payable from revenue deposited to the credit of the revenue fund and to provide a copy of the proposed bond or agreement to the LBB or its successor in function for approval. The resolution requires the proposed bond or agreement to be considered approved unless the LBB or its successor in function issues a written disapproval not later than the 21st day after the date on which staff of the LBB or its successor in function receives the submission.

C.S.S.J.R. 1 sets out the revenue fund's composition and requires the legislature by general law

to provide for the manner in which the revenue fund's assets may be used, subject to the limitations provided by the resolution. The resolution authorizes the legislature by general law to provide for costs of investment of the revenue fund to be paid from that fund and requires the TWDB or its successor in function, in each fiscal year in which amounts become due under the bonds or agreements, to transfer from revenue deposited to the credit of the revenue fund in that fiscal year an amount that is sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year and any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

C.S.S.J.R. 1 requires any obligations authorized by general law to be issued by the TWDB or its successor in function to be special obligations payable solely from amounts in the revenue fund and prohibits obligations issued by the TWDB or its successor in function from being a constitutional state debt payable from the general revenue of the state.

C.S.S.J.R. 1 prohibits the modification of any dedication or appropriation of revenue to the credit of the revenue fund so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds. The resolution establishes that money in the revenue fund is dedicated by the constitution for purposes of certain constitutional restrictions on appropriations.

### **ELECTION DATE**

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.S.J.R. 1 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the resolution.

#### SENATE ENGROSSED

SECTION 1. Article III, Texas Constitution, is amended by adding Sections 49-d-12 and 49-d-13 to read as follows:

Sec. 49-d-12. (a) The state water implementation fund for Texas is created as a special fund in the state treasury outside the general revenue fund to provide a means to finance water infrastructure, conservation, and reuse projects in this state.

(b) Money or other assets in the state water implementation fund for Texas may be used only to fund water infrastructure, conservation, and reuse projects included in a statewide water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function.

*(See Subsec. (d) below.)*

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article III, Texas Constitution, is amended by adding Sections 49-d-12 and 49-d-13 to read as follows:

Sec. 49-d-12. (a) The State Water Implementation Fund for Texas is created as a special fund in the state treasury outside the general revenue fund.  
*(See Subsec. (c) below.)*

Money in the State Water Implementation Fund for Texas shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function.

Separate accounts may be established in the State Water Implementation Fund for Texas

(c) The state water implementation fund for Texas consists of:

(1) money or other assets deposited, appropriated, or otherwise transferred to the credit of the fund as provided by law; and

(2) interest or other investment earnings that accrue on the balance of the fund.

(d) The legislature by general law may provide for the assets of the state water implementation fund for Texas to be invested separately from the investment of other treasury assets and funds to the extent that the general law ensures that, in managing the assets of the fund, on behalf of the fund the fund's investment manager may 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 and taking into consideration the goal of preserving the aggregate purchasing power of the fund assets.

(e) The legislature by general law shall prescribe the manner in which the assets of the state water implementation fund for Texas may be used, subject to the limitations provided by Subsections (a) and (b) of this section.

as necessary to administer the fund or authorized projects.

(e) The State Water Implementation Fund for Texas consists of:

(1) money transferred or deposited to the credit of the fund, including money from any source transferred or deposited to the credit of the fund at the discretion of the Texas Water Development Board or that board's successor in function 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 fund;

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

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

(5) 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 general law.

*(See Subsec. (a) above.)*

(f) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for

(f) The legislature may authorize the Texas Water Development Board or its successor in function to issue bonds and enter into bond enhancement agreements that are payable or secured by amounts on deposit in the state water implementation fund for Texas.

*(See Subsec. (a) above.)*

**No equivalent provision.**

costs of investment of the State Water Implementation Fund for Texas to be paid from that fund.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds of the Texas Water Development Board or that board's successor in function, the proceeds of which are used to finance state water plan projects. Bond enhancement agreements must be payable solely from the State Water Implementation Fund for Texas; provided, however, the bond enhancement agreements may not exceed an amount that can be fully supported by the State Water Implementation Fund for Texas. Any amount paid under a bond enhancement agreement may be repaid as provided by general law; provided, however, any repayment may not cause general obligation bonds that are issued under Sections 49-d-9 and 49-d-11 of this article and that are payable from the fund or account receiving the bond enhancement payment to be no longer self-supporting for purposes of Section 49-j(b) of this article. Payments under a bond enhancement agreement entered into pursuant to this section may not be a constitutional state debt payable from general revenues of the state.

(c) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to use the State Water Implementation Fund for Texas to finance, including by direct loan, water projects included in the state water plan.

(d) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before each bond enhancement agreement or loan agreement entered into pursuant to this section has been executed by the Texas Water Development Board or that board's successor in function and shall provide a copy of the proposed agreement to the Legislative Budget Board or that board's successor in function for approval. The

proposed agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(g) In each fiscal year there is appropriated from amounts on deposit in the state water implementation fund for Texas an amount that is sufficient to:

(1) pay the principal of and interest on the bonds that mature or become due during the fiscal year, after considering all other sources pledged for those purposes;

(2) fund or restore reserves necessary to secure the bonds; and

(3) pay any cost related to the bonds, including payments under bond enhancement agreements that become due during that fiscal year.

(h) Any dedication or appropriation of amounts on deposit in the state water implementation fund for Texas may not be modified so as to impair any outstanding bonds secured by a pledge of those amounts unless provisions have been made for a full discharge of those bonds.

(i) An appropriation from the state water implementation fund for Texas is an appropriation of state tax revenues dedicated by this constitution for the purposes of Section 22, Article VIII of this constitution.

(j) On November 30, 2013, the amount of \$2 billion is transferred from the economic stabilization fund to the credit of the state water implementation fund for Texas. This subsection expires January 1, 2014.

Sec. 49-d-13. (a) The state water implementation revenue fund for Texas is created as a special fund in the state treasury outside the general revenue fund to provide a means to finance water infrastructure, conservation, and reuse projects in this state.

(g) As provided by general law, each fiscal year the Texas Water Development Board or that board's successor in function shall set aside from amounts on deposit in the State Water Implementation Fund for Texas an amount that is sufficient to make payments under bond enhancement agreements that become due during that fiscal year.

(h) Any dedication or appropriation of amounts on deposit in the State Water Implementation Fund for Texas may not be modified so as to impair any outstanding obligation under a bond enhancement agreement secured by a pledge of those amounts unless provisions have been made for a full discharge of the bond enhancement agreement.

(i) Money in the State Water Implementation Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution and an appropriation from the economic stabilization fund to the credit of the State Water Implementation Fund for Texas is an appropriation of state tax revenues dedicated by this constitution for the purposes of Section 22, Article VIII, of this constitution.

*(See Subsec. (i) above.)*

Sec. 49-d-13. (a) The State Water Implementation Revenue Fund for Texas is created as a special fund in the state treasury outside the general revenue fund.

(b) Money or other assets in the state water implementation revenue fund for Texas may be used only to fund water infrastructure, conservation, and reuse projects included in the statewide water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function.

*(See Subsec. (d) below.)*

(c) The state water implementation revenue fund for Texas consists of:

(1) money or other assets deposited, appropriated, or otherwise transferred to the credit of the fund as provided by law;

(2) interest or other investment earnings that accrue on the balance of the fund;

(3) the proceeds from the sale of bonds, including revenue bonds issued by the board as authorized by law, that are designated by the board for the purpose of providing money for the fund;

(4) money disbursed to the fund from the state water implementation fund for Texas as authorized by law;

(5) repayments of loans made from the fund; and

(6) proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund.

(d) The legislature by general law may provide for the assets of the state water

Money in the State Water Implementation Revenue Fund shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function. Separate accounts may be established in the State Water Implementation Revenue Fund for Texas as necessary to administer the fund or authorized projects.

(d) The State Water Implementation Revenue Fund for Texas consists of:

(1) 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 the discretion of the Texas Water Development Board or that board's successor in function 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 fund;

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

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

(5) the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the Texas Water Development Board or that board's successor in function for the purpose of providing money for the fund; and

(6) money disbursed to the fund from the State Water Implementation Fund for Texas as authorized by general law.

*(See Subsec. (a) above.)*

implementation revenue fund for Texas to be invested separately from the investment of other treasury assets and funds to the extent that the general law ensures that, in managing the assets of the fund, on behalf of the fund the fund's investment manager may 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 and taking into consideration the goal of preserving the aggregate purchasing power of the fund assets.

No equivalent provision.

(e) The legislature by general law shall prescribe the manner in which the assets of the state water implementation revenue fund for Texas may be used, subject to the limitations provided by Subsections (a) and (b) of this section.

(f) The legislature may authorize the Texas Water Development Board or its successor in function to issue bonds and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state water implementation revenue

(c) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before issuing a bond pursuant to this section or entering into a related credit agreement that is payable from revenue deposited to the credit of the State Water Implementation Revenue Fund for Texas and shall provide a copy of the proposed bond or agreement to the Legislative Budget Board or that board's successor in function for approval. The proposed bond or agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(e) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Revenue Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for costs of investment of the State Water Implementation Revenue Fund for Texas to be paid from that fund.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to issue bonds and enter into related credit agreements that are payable from all revenues available to the State Water



fund for Texas.

(g) In each fiscal year in which amounts become due under the bonds, or agreements authorized by this section, there is appropriated from revenue deposited to the credit of the state water implementation revenue fund for Texas in that fiscal year an amount that is sufficient to pay:

(1) the principal of and interest on the bonds that mature or become due during the fiscal year; and

(2) any cost related to the bonds, including payments under bond enhancement agreements that become due during that fiscal year.

**No equivalent provision.**

(h) Any dedication or appropriation of revenue to the credit of the state water implementation revenue fund for Texas may not be modified so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds.

**No equivalent provision.**

SECTION 2. Section 49-p, Article III, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) Money deposited to the credit of the state highway fund may be appropriated to repay the principal and interest on bonds issued under this section.

Implementation Revenue Fund for Texas.

(f) In each fiscal year in which amounts become due under the bonds or agreements authorized by this section, the Texas Water Development Board or that board's successor in function shall transfer from revenue deposited to the credit of the State Water Implementation Revenue Fund for Texas in that fiscal year an amount that is sufficient to pay:

(1) the principal of and interest on the bonds that mature or become due during the fiscal year; and

(2) any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

(g) Any obligations authorized by general law to be issued by the Texas Water Development Board or that board's successor in function pursuant to this section shall be special obligations payable solely from amounts in the State Water Implementation Revenue Fund for Texas. Obligations issued by the Texas Water Development Board or that board's successor in function pursuant to this section may not be a constitutional state debt payable from the general revenue of the state.

(h) Same as engrossed version.

(i) Money in the State Water Implementation Revenue Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution.

**No equivalent provision.**

SECTION 3. Section 49-g, Article III, Texas Constitution, is amended by adding Subsection (p) to read as follows:

(p) On November 30, 2013, the amount of \$2.9 billion is transferred from the economic stabilization fund to the credit of an account created by the Texas Department of Transportation in the state highway fund for the purposes described by this subsection. Funds transferred under this subsection may only be appropriated to the Texas Department of Transportation for the purposes of paying the principal and interest on bonds issued on or before January 1, 2013, for projects described by Rider No. 42, pages VII-36 and VII-37, Article VII, Chapter 1355, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), and funding projects previously selected to be funded with the proceeds of bonds issued under Section 49-p, Article III of this constitution. Interest earned on funds transferred under this subsection must be deposited to the credit of the state highway fund. The amounts appropriated under this subsection are not included in determining the total amount of appropriations from state tax revenues for purposes of Section 22, Article VIII of this constitution. This subsection expires August 31, 2015.

No equivalent provision.

SECTION 4. Section 49-g, Article III, Texas Constitution, is amended by adding Subsection (q) to read as follows:

(q) The amount of \$500 million is appropriated from the economic stabilization fund to the Texas Education Agency for the state fiscal biennium beginning September 1, 2013, for purposes of the Foundation School Program. The commissioner of education shall use the amount appropriated for the Foundation School Program under this subsection to increase the basic allotment under the Foundation School Program for the 2013-2014 and 2014-2015 school years. The amount of \$300 million is appropriated from the economic stabilization fund to the Texas Education Agency for the state fiscal biennium beginning September 1, 2013, for purposes of the educator excellence awards program as provided by Sections 21.705(1)-(8), Education Code. Priority shall be given to campuses that fail to meet the standard

No equivalent provision.

defined under Section 39.054, Education Code. The amounts appropriated under this subsection are not included in determining the total amount of appropriations from state tax revenues for purposes of Section 22, Article VIII of this constitution. This subsection expires August 31, 2015.

SECTION 5. (a) The proposed amendment to the Texas Constitution providing for adding Sections 49-d-12 and 49-d-13, Article III, to the constitution shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the transfer of existing money from the economic stabilization fund to a state water implementation fund for Texas to assist in the financing of priority water infrastructure projects in the state water plan."

(b) The proposed amendment to the Texas Constitution relating to transportation and providing for amending Section 49-g, Article III, shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the transfer of existing money from the economic stabilization fund to assist in the funding of transportation construction, maintenance, and rehabilitation projects."

(c) The proposed amendment to the Texas Constitution relating to education and providing for amending Section 49-g, Article III, shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment transferring \$800 million from the economic stabilization fund for purposes of public education."

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the creation of the State Water Implementation Fund for Texas and the State Water Implementation Revenue Fund for Texas to assist in the financing of priority projects in the state water plan to ensure the availability of adequate water resources."