

BILL ANALYSIS

C.S.H.B. 3987
By: Larson
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that, due to the state's growing water demands, the use of the Texas Water Development Fund II state participation account should be expanded to include the development of a desalination or aquifer storage and recovery facility. C.S.H.B. 3987 seeks to provide for such expansion by enacting the Texas State Water Investment Fund Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 3987 amends the Water Code to authorize the Texas Water Development Board (TWDB) to use the state participation account II, created by the bill, to provide financial assistance for the development of a desalination or aquifer storage and recovery facility to meet existing or projected future water needs by acquiring such a facility or an ownership interest in such a facility. The bill authorizes the TWDB to act singly or in a joint venture in partnership with any person to the extent permitted by law. The bill authorizes the TWDB to provide financial assistance for a facility without regard to any requirements provided by TWDB rules regarding the portion of the capacity of the facility that will serve an existing need or the portion of the cost of the facility that the applicant will finance from sources other than the state participation account II.

C.S.H.B. 3987 exempts the use of the state participation account II for the development of a desalination or aquifer storage and recovery facility by acquisition of the facility or an interest in the facility from the requirement that the TWDB first make certain affirmative findings regarding the facility, but requires the TWDB to make certain affirmative findings before the TWDB is authorized to acquire such a facility or an interest in such a facility. The bill prohibits the TWDB from providing financial assistance for a facility unless the facility is included in the state water plan. The bill requires the TWDB to establish a point system for prioritizing facilities for which financial assistance is sought from the TWDB and requires the system to include a standard for the TWDB to apply in determining whether a facility qualifies for financial assistance at the time the application for financial assistance is filed with the TWDB. The bill prohibits the TWDB from issuing more than \$200 million in water financial assistance bonds designated by the TWDB as issued to provide financial assistance for desalination and aquifer storage and recovery facilities. The bill prohibits the TWDB, if it does not provide financial assistance for a desalination or aquifer storage and recovery facility from the state participation

account II before September 1, 2022, from providing financial assistance for any facility from that account after that date.

C.S.H.B. 3987 expands the permits an applicant is required to first secure from the Texas Commission on Environmental Quality before the TWDB grants an application to buy, receive, or lease facilities from a permit for water use to all appropriate permits. The bill authorizes the TWDB to assist an applicant with securing permits for a desalination or aquifer storage and recovery facility.

C.S.H.B. 3987 requires the comptroller of public accounts to establish a subaccount in the Texas Water Development Fund II state participation account to be known as the state participation account II. The bill authorizes the TWDB to credit to the subaccount money in the state participation account allocated by the TWDB for the purposes of the bill's provisions relating to applicable authorized projects. The bill authorizes the TWDB to transfer money from the subaccount to the state participation account if the TWDB determines the money is needed for certain purposes.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3987 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

No equivalent provision.

SECTION 1. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.145 to read as follows:

Sec. 16.145. SEAWATER DESALINATION OR AQUIFER STORAGE AND RECOVERY FACILITY.

(a) In addition to using the account for the purposes described by Section 16.131, the board may use the state participation account of the development fund to provide financial assistance for the development of a seawater desalination or aquifer storage and recovery facility, including associated intake or distribution facilities, to meet

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. This Act may be cited as the Texas State Water Investment Fund Act.

SECTION 2. The heading to Section 16.131, Water Code, is amended to read as follows:

Sec. 16.131. AUTHORIZED PROJECTS FOR STATE PARTICIPATION ACCOUNT.

SECTION 3. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.145 to read as follows:

Sec. 16.145. AUTHORIZED PROJECTS FOR STATE PARTICIPATION ACCOUNT II.

(a) The board may use the state participation account II created under Section 17.957 to provide financial assistance for the development of a desalination or aquifer storage and recovery facility, including associated intake or distribution facilities, to meet existing or projected future water needs by acquiring

existing or projected future water needs.

(b) Section 16.135 does not apply to the use of the state participation account to acquire a facility or an interest in a facility described by Subsection (a).

(c) Before the board may acquire a facility or an interest in a facility described by Subsection (a), the board must find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facility; and

(2) the public interest will be served by the acquisition of the facility.

(d) The board may not provide financial assistance under this section for a facility unless the facility is included in the state water plan.

(e) The board shall establish a point system for prioritizing facilities for which financial assistance is sought from the board under this section. The system must include a standard for the board to apply in determining whether a facility qualifies for financial assistance at the time the application for financial assistance is filed with the board.

(f) The board may not issue more than \$200 million in water financial assistance bonds designated by the board as issued to provide financial assistance for facilities under this section.

(g) If the board does not provide financial assistance for a facility under this section before September 1, 2022, the board may not provide financial assistance for any facility under this section after that date.

such a facility or an ownership interest in such a facility.

(b) The board may act singly or in a joint venture in partnership with any person, including a public or private entity, an agency or political subdivision of this state, another state or a political subdivision of another state, the United States, or a foreign nation, to the extent permitted by law. The board may provide financial assistance under this section for a facility without regard to any requirements provided by board rules regarding the portion of the capacity of the facility that will serve an existing need or the portion of the cost of the facility that the applicant will finance from sources other than the state participation account II.

(c) Section 16.135 does not apply to the use of the state participation account II to develop a facility described by Subsection (a) by acquiring the facility or an interest in the facility.

(d) Before the board may acquire a facility or an interest in a facility described by Subsection (a), the board must find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facility; and

(2) the public interest will be served by the acquisition of the facility.

(e) The board may not provide financial assistance under this section for a facility unless the facility is included in the state water plan.

(f) The board shall establish a point system for prioritizing facilities for which financial assistance is sought from the board under this section. The system must include a standard for the board to apply in determining whether a facility qualifies for financial assistance at the time the application for financial assistance is filed with the board.

(g) The board may not issue more than \$200 million in water financial assistance bonds designated by the board as issued to provide financial assistance for facilities under this section.

(h) If the board does not provide financial assistance for a facility from the state participation account II before September 1, 2022, the board may not provide financial assistance for any facility from that account

after that date.

SECTION 2. Section 16.182, Water Code, is amended to read as follows:

Sec. 16.182. PERMIT REQUIRED. (a) Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

(b) The board may assist the applicant with securing a permit for a facility described by Section 16.145.

SECTION 3. Sections 17.957(b) and (c), Water Code, are amended to read as follows:

(b) The state participation account is composed of:

(1) money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Sections [Section] 16.131 and 16.145;

(2) money from the sale, transfer, or lease of a project described in Subdivision (1) that was acquired, constructed, reconstructed, developed, or enlarged with money from the state participation account;

(3) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for projects described in Sections [Section] 16.131 and 16.145;

(4) investment income earned on money on deposit in the state participation account;

(5) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the state participation account.

(c) Money on deposit in the state participation account may be used by the board for projects described in Sections [Section] 16.131 and 16.145 in the manner that the board determines necessary for the administration of the fund.

SECTION 4. Section 16.182, Water Code, is amended to read as follows:

Sec. 16.182. PERMITS [PERMIT] REQUIRED. (a) Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure all appropriate permits [~~a permit for water use~~] from the commission. If the facilities are to be leased, a [~~the~~] permit may be for a term of years.

(b) The board may assist the applicant with securing permits for a facility described by Section 16.145.

SECTION 5. Section 17.957, Water Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) The state participation account is composed of:

(1) money and assets attributable to water financial assistance bonds designated by the board as issued for projects described in Sections [Section] 16.131 and 16.145;

(2) money from the sale, transfer, or lease of a project described in Subdivision (1) that was acquired, constructed, reconstructed, developed, or enlarged with money from the state participation account;

(3) payments received under a bond enhancement agreement with respect to water financial assistance bonds designated by the board as issued for projects described in Sections [Section] 16.131 and 16.145;

(4) investment income earned on money on deposit in the state participation account;

(5) money disbursed to the fund from the state water implementation fund for Texas as authorized by Section 15.434; and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the state participation account.

(c) Money on deposit in the state participation account may be used by the board for projects described in Sections [Section] 16.131 and 16.145 in the manner that the board determines necessary for the administration of the fund.

(c-1) The comptroller shall establish a subaccount in the state participation account to be known as the state participation

account II. The board may credit to the subaccount money in the state participation account allocated by the board for the purposes of Section 16.145. The board may transfer money from the subaccount to the state participation account if the board determines the money is needed for the purposes of Section 16.131.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 6. Same as introduced version.