

SUBJECT: Increasing limit on general obligation bonds issued for water projects

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Ritter, Callegari, Corte, T. King, Martinez Fischer, D. Miller, Smithee

0 nays

4 absent — Creighton, Frost, Laubenberg, Lucio

SENATE VOTE: On final passage, April 30 — 30-1 (Ogden)

WITNESSES: (*On House companion, HJR 128:*)
For — None

Against — None

On — Ken Kramer, Lone Star Chapter, Sierra Club; (*Registered, but did not testify:* J. Kevin Ward, Texas Water Development Board)

BACKGROUND: Art. 3, sec. 49-d-8 of the Texas Constitution lays out the Texas Water Development Fund II, funded by state general-obligation bonds authorized by a series of constitution amendments. Money in this fund is to be used for the purposes of water supply, water-quality corporations, the state participation program, and the Economically Distressed Areas Program.

Art. 3, sec. 49-j prohibits the Legislature from authorizing state debt designed to be repaid from general revenue if the resulting annual debt service from general revenue, excluding constitutionally dedicated funds, would exceed 5 percent of the average amount of general revenue over the three preceding fiscal years. The limit does not apply to state-backed bonds reasonably expected to be paid from other revenue sources.

DIGEST: SJR 50 would amend the Texas Constitution by adding sec. 49-d-11, authorizing the Texas Water Development Board (TWDB) to issue and incur at its discretion general obligation bonds, in addition to other bonds authorized, in a principal amount not to exceed \$6 billion at any one time

outstanding for one or more accounts of the Texas Water Development Fund II.

The limitation in Art. 3, sec. 49-d-8 that TWDB could not issue bonds in excess of the aggregate principal amount of previously authorized bonds would apply to bonds authorized by this amendment. Limitations on the percentage of state participation in any single project would not apply to a project funded with the proceeds of bonds issued under this amendment.

No bonds would be issued to augment the state participation account of the Texas Water Development Fund II or the water infrastructure fund unless the Legislature by general law dedicated portions of the state's revenues in support of debt service on bonds issued for these purposes. A portion of the state's revenue dedicated as provided by this provision could be used relating to the Fund II without further appropriation. This provision would not apply to bonds that, at the time of their issuance, were not state debt payable from the General Revenue Fund subject to the constitutional limit on state debt payable from general revenue.

The proposal would be presented to the voters at an election on Tuesday, November 3, 2009. The ballot proposal would read: "The constitutional amendment allowing the issuance of additional general obligation bonds by the Texas Water Development Board not to exceed \$6 billion outstanding at any time."

**SUPPORTERS
SAY:**

SJR 50 would propose amending the Constitution to authorize TWDB to issue additional general obligation bonds so long as there was no more than \$6 billion in aggregate debt issued at any one time. If approved by voters, these low-interest bonds would be used to back more loans to communities to finance projects for water supply, water infrastructure, water quality, and flood control. The bonds also would be used for the state participation program and to match federal dollars through two revolving loan funds — the clean water state revolving fund and the drinking water revolving fund. SJR 50 would ensure that TWDB could administer its various assistance programs, fund the state's water plan, and continue to assist local and regional efforts to implement projects to address the state's water and wastewater needs. The proposal also contains a provision so that it would address any issue with the constitutional debt limit.

Although TWDB has roughly \$1.9 billion of remaining bond authority for the fund, it is projected fully to be utilized by 2011 based on the projected debt issuance for the state water plan and ongoing fund program debt. SJR 50 would establish a \$6 billion limit for total outstanding debt that would provide a perpetual source for water funding and avoid TWDB's having to seek incremental bond authority every few years, potentially delaying water projects and limiting TWDB's ability to respond to drought situations. In order to meet the demands of the water plan in addition to supporting the various water projects across the state by local governments, a dedicated source of funding would be a wise and prudent step.

There is no shortage of need for water projects in Texas. The 2007 Water Plan identified roughly 4,500 water management strategies and projects needed to bring an additional 9 million acre-feet per year of water supply to the state. Regional planning groups created by SB 1 by Brown, enacted in 1997, have estimated that the total capital costs to design, construct, or implement the plans would be about \$30.7 billion. Some studies have projected that Texas will need \$180 billion for water and sewer projects over the next 50 years. If increased demands for water supply are not met, it could cost the state approximately \$9.1 billion per year by 2010 and \$98.4 billion by 2060.

OPPONENTS
SAY:

Although there are safeguards for the issuance of bonds associated with SJR 50, the Legislature and the voters should retain their oversight authority to approve the issuance of state bonds periodically to determine the need for this level of state borrowing. While water conservation projects currently are given priority funding by the TWDB, there should be dedicated funding for water conservation as part of the state's water plan. As roughly a quarter of the state's water needs are projected to be addressed through conservation, the state should ensure that these projects receive adequate and dedicated funding.

OTHER
OPPONENTS
SAY:

While SJR 50 would allow Texas to continue to support loan programs funded by bonds issued for Texas Water Development Fund II, it also would limit the state's ability to issue bonds for the state participation program unless the state dedicated a portion of the state's revenues for that purpose. This could have the unintended consequence of limiting the types of projects funded by the state water program, if the Legislature did not carefully consider the source of that dedicated funding. If the funding source was unintentionally restrictive, as would occur through proposed

legislation, and the state participation funding only could be used if the project was contained in a specific plan, such as the state water plan, projects such as regional wastewater treatment and flood detention facilities and regional wholesale storage and distribution of water could be eliminated if the projects were not a strategy in the state water plan.

NOTES:

The House companion, HJR 128 by Ritter, was adopted by the House by 142-1 on May 14 and was referred to the Senate Natural Resources Committee on May 18. SJR 50 differs from HJR 128 in that it contains provisions that would address any potential impact of the constitution debt limit.