

SUBJECT: Providing \$6 billion in evergreen bonding authority for the TWDB

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Ritter, T. King, Beck, Creighton, Hopson, Keffer, Larson,  
Lucio, Martinez Fischer, D. Miller, Price

0 nays

WITNESSES: For — Rudy Garza, City of Corpus Christi and Texas Municipal League; Heather Harward, H2O4TEXAS Coalition; Debra Hastings, Texas Oil and Gas Association; (*Registered, but did not testify*: Kip Averitt; Carol Batterton, Water Environment Association of Texas; Steve Bresnen, North Harris County Regional Water Authority; John Burke; Donovan Burton, San Antonio Water System; Snapper Carr, City of Burleson; Bryan Farney, Joey Park, Glenn Shankle, H2O4TEXAS Coalition; Perry Fowler, Associated General Contractors of Texas; Gary Gibbs, American Electric Power; Kinnan Goleman, Shell Oil Co. and Devon Energy; Kirk Holland, Barton Springs/Edwards Aquifer Conservation District; Gloria Leal, Texas Alliance of Energy Producers; Scott Norman, Texas Association of Builders; Leonard Olson, Texas Rural Water Association; Nef Partida, Bruce LaBoon; TJ Patterson, City of Fort Worth; Steve Stagner, Texas Council of Engineering Companies; CJ Tredway, Central Harris County Regional Water Authority; C.E. Williams, Panhandle Groundwater Conservation District)

Against — None

On — Melanie Callahan, Ken Petersen, Edward Vaughan, Texas Water Development Board; Ken Kramer, Lone Star Chapter, Sierra Club; Stephen Minick, Texas Association of Business; (*Registered, but did not testify*: Piper Montemayor, Texas Water Development Board)

BACKGROUND: Texas Constitution, Art. 3, sec. 49 generally prohibits state borrowing. However, Texas voters have amended this provision numerous times to authorize the issuance of general obligation bonds backed by the state's full faith and credit, most recently in 2007.

Art. 3, sec. 49-j, approved by voters in November 1997, sets a specific limit on certain state debt. The Legislature may not authorize general obligation or revenue bonds or large lease-purchase agreements designed to be repaid from general revenue if the resulting annual debt service from general revenue would exceed 5 percent of the average amount of general revenue (excluding funds dedicated by the Constitution) over the preceding three fiscal years. The limitation does not include state-backed bonds for which debt service is reasonably expected to be paid from other revenue sources and not draw on general revenue, unless repayment from general revenue actually is required.

At the end of fiscal 2010, actual debt service on outstanding state debt payable from general revenue equaled about 1.36 percent of unrestricted general revenue, according to the Bond Review Board. The ratio of total authorized debt service (issued and unissued) to unrestricted general revenue was 4.10 percent at the end of fiscal 2010.

The Texas Water Development Board (TWDB) provides financial assistance for water and wastewater projects throughout the state by issuing general obligation water development bonds and using the proceeds to finance loans to political subdivisions.

The TWDB issues general obligation bonds under the constitutional authority of the Texas Water Development Fund II, including the Development Fund (DFund) Program, Water Infrastructure Fund, State Participation Program, and Rural Water Assistance Fund. The Development Fund also provides state match funds for the TWDB's Clean Water and Drinking Water State Revolving Funds.

The TWDB issues both self-supporting and non self-supporting bonds under one constitutional authority. Non self-supporting bonds require appropriation of general revenue for debt service and are included in the calculation of the constitutional debt limit. Self-supporting bonds are not included in the calculation of the constitutional debt limit. Typically, the TWDB issues self-supporting bonds and uses the proceeds of those bonds to finance loans to political subdivisions, and the principal and interest payments by the political subdivisions cover the debt service on the TWDB's bonds.

Since 1957, voters have approved, in increments, a total of \$4.3 billion in general obligation bonds to provide financial assistance for water and

wastewater projects throughout the state. The most recent bond authorization, in 2001, authorized the TWDB to issue up to \$2 billion in additional general obligation bonds.

**DIGEST:**

CSHJR 137 would amend Texas Constitution, Art. 3, sec. 49-d-11 to allow the Texas Water Development Board (TWDB) to issue, in addition to the bonds authorized by other provisions of the Texas Constitution, general obligation bonds for one or more accounts of the Texas Water Development Fund II (DFund II) in amounts such that the aggregate principal amount of the bonds issued for the DFund II did not exceed \$6 billion outstanding at any one time.

The limitation in Art. 3, sec. 49-d-8 that TWDB not issue bonds in excess of the aggregate principal amount of previously authorized bonds would not 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.

The proposal would be presented to the voters at an election on Tuesday, November 8, 2011. The ballot proposal would read: "The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$6 billion at any time outstanding."

**SUPPORTERS  
SAY:**

The TWDB was created in 1957 through constitutional amendment to provide financial assistance for water and wastewater projects throughout the state. Because of increased demand for its financing programs, the TWDB's largest constitutional bond authority, the Development Fund II, will be insufficient to sustain the TWDB's responsibilities as soon as the end of this biennium. Without additional authority, the TWDB may not be able to meet the state's water and wastewater needs, and the state will lose federal funds.

CSHJR 137 would propose amending the Constitution to authorize TWDB to issue additional general obligation bonds so long as no more than \$6 billion in aggregate debt was issued at any one time. Authorizing the TWDB to issue additional bonds through an ongoing, "evergreen" bond authority would allow it to secure uninterrupted bonding authority to fulfill its constitutional mission as well as simplify its bond authorization process by avoiding repeated and costly constitutional amendments.

Approval of this constitutional amendment would mean that Texas voters endorsed this method of ensuring a continuing financing source for water and wastewater projects, as long as the total aggregate amount of bonds issued did not exceed the \$6 billion cap. In 2009, the 81st Legislature proposed a similar evergreen provision for the state bonds issued the Veterans' Land Board to finance the state program that provides low-interest loans for land and home mortgages for veterans, and Texas voters overwhelmingly approved that provision. Like the veterans' land and mortgage bonds, DFund II bonds are self-supporting and require no draw on general revenue but use the state's superior credit rating to finance water and wastewater projects at a lower interest rate.

CSHJR 137 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. This authority would not affect the state's constitutional debt limit since DFund II programs are considered self-supporting and require no draw on general revenue for debt service. In addition, the Bond Review Board would retain its authority to review any unissued bond authority of TWDB.

In its recent review of the TWDB, the Sunset Advisory Commission recommended that it be authorized to issue additional general obligation bonds for one or more accounts of the Development Fund II up to \$6 billion.

**OPPONENTS  
SAY:**

This proposed constitutional amendment would, in effect, allow TWDB to issue more than \$6 billion in new state-backed bonds, a considerable expansion of state debt. It would re-authorize the issuance of bonds originally authorized as long as 50 years ago and since paid off and retired.

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. CSHJR 137 should contain a sunset provision so that the voters have an opportunity to reevaluate the need to issue additional state debt.

State bonds are long-term debt and generally are not issued and ultimately retired until decades after they originally were authorized by the voters. The reauthorization of bonds allowed by CSHJR 137 should apply only to

those bonds previously authorized and retired as of this year, and any bonds retired in the future should have to be reauthorized by the voters before they could be reissued as state debt.

NOTES:

The Senate adopted a similar measure, SJR 4 by Hinojosa, by 30-1 (Ogden) on April 28.

HB 1732 by Ritter, which would codify the current practice for determining how the TWDB's general-obligation water development bonds were treated for purposes of calculating the constitutional debt limit, passed the House by 139-0 on April 6 and was referred to the Senate Finance Committee on April 14.