

SUBJECT: Proposing a constitutional amendment to create the Texas Water Fund

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — T. King, E. Thompson, Kacal, Kitzman, Lalani, Metcalf, Price, Ramos, Rogers, Zwiener

0 nays

1 absent — Gamez

WITNESSES: For — Jeremy Mazur, Texas 2036; Perry Fowler, Texas Water Infrastructure Network (*Registered, but did not testify*: Steven Albright, AGC of Texas- Highways, Heavy, Utilities and Industrial Branch; Guadalupe Cuellar, City of El Paso; Todd Votteler, Collaborative Water Resolution, LLC; Vanessa Puig Williams, EDF; Kaitlyn Murphy, Greater Houston Partnership; Carlos Rubinstein, RSAH2O LLC; Ned Muñoz, Texas Association of Builders; Rebecca Grande, Texas Association of Business; Monty Wynn, Texas Municipal League; Julie Nahrgang, The Water Environment Association of Texas and Texas Association of Clean Water Agencies; Kenneth Flippin, US Green Building Council Texas Chapter; Nancy Mckee)

Against — (*Registered, but did not testify*: Sandra Blankenship)

On — (*Registered, but did not testify*: Tammy Benter, Celia Eaves, Public Utility Commission; Jeff Walker, Texas Water Development Board)

BACKGROUND: Some have suggested that, due to the importance of the state's water infrastructure and associated costs, Texas should implement a long-term investment strategy to finance the development of water supplies and infrastructure.

DIGEST: CSHJR 169 would amend the Texas Constitution to create the Texas Water Fund as a special fund in the state treasury outside the general revenue fund. Money in the fund would be administered by the Texas

Water Development Board (TWDB) and could be used only as provided by general law and by TWDB.

The Texas Water Fund would consist of:

- money transferred or deposited to the fund in accordance with the resolution's provisions;
- appropriations made by the Legislature;
- gifts and grants;
- all interest, dividends, and other income of the fund;
- proceeds from the sale of bonds; and
- repayments of loans made from the fund.

Money from the fund could be used to make grants or loans for water infrastructure projects and to disburse money to another fund or account administered by TWDB.

Subject to certain limitations, the Legislature would be required to provide by general law for the manner in which the assets of the fund could be used and could provide for costs of the fund to be paid from the fund.

The comptroller would be required to deposit \$250 million of net general revenue funds that exceeded \$30.5 billion to the Texas Water Fund in each fiscal year starting September 1, 2023. The Legislature, with a resolution approved by a record vote of two-thirds of the members of each house, could direct the comptroller to reduce the amount of money deposited to the credit of the fund, but only:

- in the fiscal year that the resolution was adopted, or in either of the following two fiscal years; and
- by an amount that did not reduce the amount that would otherwise be deposited by more than 50 percent.

TWDB could establish separate accounts in the fund as necessary to administer the fund or authorized projects. The Legislature could authorize TWDB to issue bonds and enter into related credit agreements

that were payable only from all revenues available to the fund.

The bill would require TWDB to provide to the Legislative Budget Board (LBB) written notice before issuing such a bond or entering into such a credit agreement, as well as a copy of the proposed bond or agreement for approval. The proposed bond or agreement would be considered approved unless LBB issued written disapproval by the 21st day after receiving the submission.

For each fiscal year in which payments were due under the fund's revenue bonds or agreements, TWDB would be required to set aside a sufficient amount from the revenue of the fund to pay any cost related to the bonds that became due during that fiscal year, including the principal and interest on the bonds.

Any obligations authorized by general law to be issued by TWDB would be considered special obligations that were payable solely from amounts in the fund and could not be considered a constitutional state debt that was payable from the general revenue of the state. Any dedication or appropriation of revenue to the credit of the fund could not be modified to impair any outstanding bonds secured by a pledge of that revenue, unless provisions had been made for a full discharge of those bonds. Money in the fund would be dedicated by the constitution for purposes of the constitutional limit on the growth rate of the applicable appropriations.

The resolution would intend only to establish a basic, noncomprehensive framework of the fund, and would authorize the Legislature to implement provisions of the resolution or delegate certain responsibilities to TWDB.

The proposed constitutional amendment would be submitted to the voters at an election to be held November 7, 2023, and would read "the constitutional amendment providing for the dedication of certain sales and use tax revenue to a special fund established in the state treasury to pay for water infrastructure in this state."

NOTES:

According to the Legislative Budget Board, HJR 169 would have an

estimated negative impact of about \$500 million to general revenue related funds during fiscal 2024-2025.