

BILL ANALYSIS

Senate Research Center
85R20897 JXC-F

H.B. 3987
By: Larson; Workman (Hinojosa)
Agriculture, Water & Rural Affairs
5/17/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. H.B. 3987 provides for such expansion by enacting the Texas State Water Investment Fund Act.

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 TWDB to act singly or in a joint venture in partnership with any person to the extent permitted by law. The bill authorizes 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.

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 TWDB first make certain affirmative findings regarding the facility, but requires TWDB to make certain affirmative findings before TWDB is authorized to acquire such a facility or an interest in such a facility. The bill prohibits TWDB from providing financial assistance for a facility unless the facility is included in the state water plan. The bill requires TWDB to establish a point system for prioritizing facilities for which financial assistance is sought from TWDB and requires the system to include a standard for TWDB to apply in determining whether a facility qualifies for financial assistance at the time the application for financial assistance is filed with TWDB. The bill prohibits TWDB from issuing more than \$200 million in water financial assistance bonds designated by TWDB as issued to provide financial assistance for desalination and aquifer storage and recovery facilities. The bill prohibits 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.

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

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 TWDB to credit to the subaccount money in the state participation account allocated by TWDB for the purposes of the bill's provisions relating to applicable authorized projects. The bill authorizes TWDB to transfer money from the subaccount to the state participation account if TWDB determines the money is needed for certain purposes.

H.B. 3987 amends current law relating to the authority of the Texas Water Development Board to use the state participation account of the water development fund to provide financial assistance for the development of certain facilities.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Texas State Water Investment Fund Act.

SECTION 2. Amends the heading to Section 16.131, Water Code, to read as follows:

Sec. 16.131. AUTHORIZED PROJECTS FOR STATE PARTICIPATION ACCOUNT.

SECTION 3. Amends Subchapter E, Chapter 16, Water Code, by adding Section 16.145, as follows:

Sec. 16.145. AUTHORIZED PROJECTS FOR STATE PARTICIPATION ACCOUNT II. (a) Authorizes the Texas Water Development Board (TWDB) to use the state participation account II (subaccount) created under Section 17.957 (State Participation Account) 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 such a facility or an ownership interest in such a facility.

(b) Authorizes TWDB to act singly or in a joint venture in partnership with any person, including certain entities, to the extent permitted by law. Authorizes TWDB to provide financial assistance under this section 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 subaccount.

(c) Provides that Section 16.135 (Board Findings) does not apply to the use of the subaccount to develop a facility described by Subsection (a) by acquiring the facility or an interest in the facility.

(d) Requires TWDB, before TWDB is authorized to acquire a facility or an interest in a facility described by Subsection (a), to find affirmatively that it is reasonable to expect that the state will recover its investment in the facility and the public interest will be served by the acquisition of the facility.

(e) Prohibits TWDB from providing financial assistance under this section for a facility unless the facility is included in the state water plan.

(f) Requires TWDB to establish a point system for prioritizing facilities for which financial assistance is sought from TWDB under this section and requires that the system include a standard for TWDB to apply in determining whether a facility qualifies for financial assistance at the time the application for financial assistance is filed with TWDB.

(g) Prohibits TWDB from issuing more than \$200 million in water financial assistance bonds designated by TWDB as issued to provide financial assistance for facilities under this section.

(h) Prohibits TWDB, if TWDB does not provide financial assistance for a facility from the subaccount before September 1, 2022, from providing financial assistance for any facility from the subaccount after that date.

SECTION 4. Amends Section 16.182, Water Code, as follows:

Sec. 16.182. New heading: PERMITS REQUIRED. (a) Creates this subsection from existing text. Requires the applicant, before TWDB grants the application to buy, receive, or lease the facilities, to first secure all appropriate permits from the Texas Natural Resource Conservation Commission (TNRCC), rather than to first secure a permit for water use from TNRCC. Authorizes that a permit, rather than the permit, be for a term of years if the facilities are to be leased.

(b) Authorizes TWDB to assist the applicant with securing permits for a facility described by Section 16.145.

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

(b) Provides that the state participation account (account) is composed of, among certain other funds, money and assets attributable to water financial assistance bonds designated by TWDB as issued for projects described in Sections 16.131 (Authorized Projects) and 16.145, rather than in Section 16.131. Makes conforming changes.

(c) Authorizes money on deposit in the account to be used by TWDB for projects described in Sections 16.131 and 16.145, rather than in Section 16.131, in a certain manner.

(c-1) Requires the Texas comptroller of public accounts to establish a subaccount in the account to be known as the subaccount and authorizes TWDB to credit to the subaccount money in the account allocated by TWDB for the purposes of Section 16.145. Authorizes TWDB to transfer money from the subaccount to the account if TWDB determines the money is needed for the purposes of Section 16.131.

SECTION 6. Effective date: September 1, 2017.