

BILL ANALYSIS

Senate Research Center
87R7267 JAM-F

H.B. 1904
By: Harris (Kolkhorst)
Water, Agriculture & Rural Affairs
5/10/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Statement of Purpose:

To ensure that equity that can no longer be used under the water infrastructure fund (WIF) can be used for other programs in the Texas Water Development Fund II (DFund II).

Background:

WIF was statutorily created in 2001 to provide affordable financing for water conservation and development projects through the implementation of recommended strategies in the state water plan. The Texas Water Development Board (TWDB) issued more than \$950 million in bonds to support projects through the program. TWDB retired WIF in 2013 when the legislature created the State Water Implementation Fund for Texas, which now provides financing for implementation of the state water plan.

As TWDB closes out the WIF program, proper disposition of the funds is necessary. A desirable option for this disposition would be to transfer funds to DFund II. WIF money is already tied to DFund because of the constitutional authority used to issue WIF bonds to pay off water financial assistance bonds that were the source of WIF. General obligation bonding authority for DFund II was used as the initial seed money for WIF. For this reason, it is more appropriate for TWDB to transfer WIF money to DFund II than to another state program. Additionally, use of WIF is limited to state water plan projects and DFund II projects must be consistent with the state water plan.

While Section 17.9616(b), Water Code, authorizes TWDB to transfer money from WIF to pay debt service on water financial assistance bonds issued to fund WIF, Section 15.974 limits that authority. Section 15.974 governs the allowable uses of WIF, including express transfers to other funds operated by TWDB, but does not expressly allow transfers from WIF to the financial assistance account of DFund II for other purposes. As a matter of housekeeping and statutory cleanup, TWDB requests to clarify its existing statutory authority in Sections 15.974 and 17.961, Water Code.

The amendment to Section 15.974 provides that transfers may be made to the financial assistance account under Section 17.959, Water Code, which describes in general terms the possible sources for money in the financial assistance account. The amendment to Section 17.9616 provides that transfers may be made from the water infrastructure fund to the financial assistance account for any authorized use of the financial assistance account and is not limited to the repayment of water financial assistance bonds issued to provide financial assistance through the water infrastructure fund. Together, these two amendments provide authority for the movement of funds between WIF and the financial assistance account without limitation.

Key Provisions:

- Allows TWDB to use the fund to make transfers to the financial assistance account of the DFund II for purposes allowed under the Texas Constitution, other than for use in the state participation account or the economically distressed areas program account; and

- Provides that transfers may be made from WIF to the financial assistance account for any authorized use of the financial assistance account.

H.B. 1904 amends current law relating to the use of the water infrastructure fund.

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. Amends Section 15.974(a), Water Code, as follows:

(a) Authorizes the Texas Water Development Board (TWDB) to use the water infrastructure fund (fund) to make transfers from the fund to the financial assistance account of the Texas Water Development Fund II created under Section 17.959 (Financial Assistance Account) for the purposes described in Section 49-d-8, Article III, Texas Constitution, other than for the purposes described in Sections 17.957 (State Participation Account) and 17.958 (Economically Distressed Areas Program Account). Makes nonsubstantive changes.

SECTION 2. Amends Section 17.9616(b), Water Code, as follows:

(b) Requires TWDB to use the fund as a source of revenue to be deposited in accordance with Subchapter L (Water Financial Assistance Bond Program) for the payment of principal and interest on water financial assistance bonds issued by TWDB, the proceeds of which are to be deposited into the fund and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds or for any other purpose authorized by Section 17.959(c) (relating to authorizing money on deposit in the financial assistance account to be used by TWDB for certain purposes determined by TWDB).

SECTION 3. Effective date: September 1, 2021.