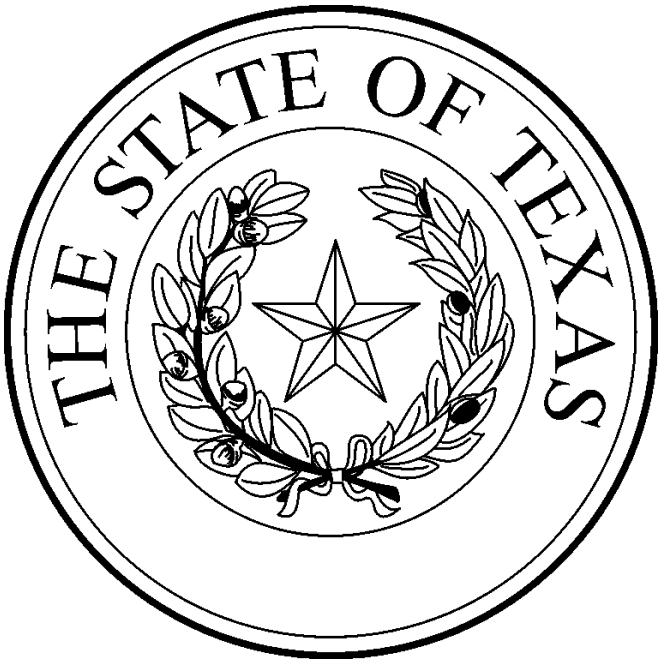
The Joint Committee on State Water Funding



Interim Report to the 81st Legislature

March 2009

THE JOINT COMMITTEE ON STATE WATER FUNDING

REPRESENTATIVE MIKE "TUFFY" HAMILTON,
Co-Chairman
REPRESENTATIVE BRANDON CREIGHTON
REPRESENTATIVE DAN GATTIS
REPRESENTATIVE WILL HARNETT

SENATOR KIP AVERITT,
Co-Chairman
SENATOR ROBERT DUNCAN
SENATOR KEVIN ELTIFE
SENATOR JUAN "CHUY" HINOJOSA

March 16, 2009

The Honorable David Dewhurst, Lieutenant Governor of Texas
The Honorable Joe Straus, Speaker of the House of Representatives of Texas
Members of the Texas Legislature
Texas State Capitol
Austin, Texas 78701

Dear Governor Dewhurst, Speaker Straus, and Fellow Members:

The Joint Committee on State Water Funding hereby submits its interim report including findings and recommendations for consideration by the Eighty-first Legislature.

Respectfully Submitted,

Representative Mike "Tuffy" Hamilton, Co-Chair

Senator Kip Averitt, Co-Chair

Representative Brandon Creighton

Senator Robert Duncan

Representative Dan Gattis

Senator Kevin Eltife

Representative Will Harnett

Senator Juan "Chuy" Hinojosa

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INTERIM CHARGES

The Joint Committee on State Water Funding was tasked with the following:

(1) receive information on water infrastructure needs as identified in the state water plan;

(2) receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan;

(3) receive analyses of the funding gap and recommendations on how to address those funding needs;

(4) receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities; and

(5) identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.

BACKGROUND

THE STATE WATER PLAN

Regional water plans, which are developed by 16 regional water planning groups, are submitted to the Texas Water Development Board (TWDB) every five years. The TWDB, through evaluation of the submitted plans, develops the State Water Plan one year later. The steps required to develop a regional water plan are provided in Appendix A.

The 2007 State Water Plan was adopted by TWDB on November 14, 2006. Appendix B contains a summary of the 2007 State Water Plan. The State Water Plan notes that the population in Texas will grow to 45.6 million by 2060, and water demand will increase to about 21.6 million acre-feet. The 21.6 million acre-feet of estimated future demand will exceed current projected capacity and result in an estimated 2.7 million acre-feet of unmet needs.[1] According to the 2007 State Water Plan, "if Texas does not implement the water plan, approximately 85 percent of the state's projected population will not have enough water by 2060 in drought conditions."[2]

The TWDB projected potential negative impacts to the state if strategies included in the State Water Plan are not implemented. Negative impacts include stifled growth resulting in decreases in regional income, state and local tax receipts, jobs, population, and school enrollment.[3] According to the 2007 State Water Plan, "if Texas does not implement the water plan, water shortages during drought could cost businesses and workers in the state approximately $9.1 billion by 2010 and $98.4 billion by 2060."[4] An analysis of possible impacts resulting from failure to implement the State Water Plan is included in Appendix C.

PREVIOUS LEGISLATIVE EFFORTS TO FUND WATER PROJECTS

Providing adequate funding for water infrastructure projects has been an ongoing struggle for the state. Throughout the past decade, there have been numerous attempts to secure a dedicated source of revenue for water infrastructure projects. In 1997, during the 75th

Legislative Session, State Representative Ron Lewis filed House Bill (H.B.) 1802 relating to the development and management of the water resources of the state. The bill proposed various changes, including authorizing the Texas Natural Resource Conservation Commission, the predecessor of the Texas Commission on Environmental Quality (TCEQ), to collect a fee from each public water supply system in the state. House Bill 1802 also provided for the establishment of an annual water rights fee, compensation to the basin of origin, and the establishment of a water facilities fund held in the state treasury. Although H.B. 1802 failed to pass the 75th Legislature, efforts to find a source of funding continued in subsequent legislative sessions.[5] The portions of H.B. 1802 relating to funding methods can be found in Appendix D.

Senate Bill (S.B.) 2, authored by Senator J.E. "Buster" Brown, 77th Legislature, 2001, was an omnibus water bill that attempted to establish a revenue stream for water projects. Senate Bill 2 was the successor of Senator Brown's bill that established the regional water planning process, S.B. 1, 75th Legislature, 1997. Several methods of revenue were contemplated in S.B. 2, including a water rights fee, a retail water customer fee, a wastewater fee, and a surcharge on bottled water assessed on the manufacturer. Although the proposed fees were removed from the bill prior to passage, incentives for rainwater harvesting and small system sales tax exemptions were included in the final version of the legislation.[6] Excerpts from the filed version of the bill relating to fees can be found in Appendix E. While a revenue stream was not secured through the passage of S.B. 2, the 77th Legislature did establish the Rural Water Assistance Fund (RWAF) and the Water

Infrastructure Fund (WIF), both of which were intended to be supported by future appropriations.[7]

The RWAF was designed to help small rural utilities obtain low cost financing for water and wastewater projects. The TWDB, through RWAF, offers tax exempt, low interest rate loans with short and long-term financing options. Eligible borrowers are defined as rural political subdivisions, including nonprofit water supply corporations, water districts or municipalities serving a population of up to 10,000 (or that otherwise qualify for federal financing), and counties in which no urban area has a population exceeding 50,000.[8] For more information about RWAF, see Appendix F.

The WIF was designed to provide financial assistance for the planning, design and construction of projects included in the State Water Plan. In order to receive financial assistance through WIF, the applicant must be a political subdivision of the state. Political subdivisions that are eligible for WIF assistance include municipalities, counties, river authorities, special law districts, water improvement districts, water control and improvement districts, irrigation districts, and groundwater districts.[9] Additional information about WIF is available in Appendix G.

In April of 2004, Senator Ken Armbrister, Chairman of the Senate Committee on Natural Resources, and Senator Robert Duncan, Chairman of the Senate Committee on State Affairs, wrote a letter to TWDB Executive Administrator Kevin Ward requesting a fiscal analysis of various potential funding sources for water projects. On September 8, 2004,

the TWDB presented a report to the Senate Select Committee on Water Policy entitled *Funding Analysis of the State Role in Financing Texas' Water Needs.* The report provided several recommendations, which are included in Appendix H.

Senate Bill 3, 79th Legislature, 2005, authored by Senator Armbrister, contained legislative changes built upon the changes made by S.B. 1 in 1997 and S.B. 2 in 2001. The bill, as filed, contained a section related to financing water projects through a water conservation and development fee. Senate Bill 3 also attempted to transfer WIF to a special fund outside the state treasury to be administered by TWDB. Senate Bill 3 failed to pass the 79th Legislature. Excerpts from S.B. 3 relating to fees can be found in Appendix I.

FUNDING PROVIDED BY THE 80TH LEGISLATURE

Title 31, Section 357.7(a)(14) of the Texas Administrative Code requires TWDB to administer an infrastructure finance survey. The survey is intended to convey how regional water groups plan to finance projects, as well as quantify the amount of money that will be requested in state assistance.[10] All municipal water providers that included a recommended water management strategy in the 2007 State Water Plan received a survey. The response rate to the first survey sent out by TWDB was low due to a possible misinterpretation of the importance of a response. A second survey was later distributed in an attempt to develop a more complete understanding of the need for state assistance.[11] A copy of the TWDB survey is provided in Appendix J.

Data obtained from the 2006 infrastructure finance survey indicated that an estimated $2.4 billion in state assistance would be needed for water projects for years 2010 through 2060. The preliminary results of the 2007 TWDB survey reported that an estimated $17.1 billion in additional state assistance was needed for 2010 through 2060. The difference between the 2006 and the 2007 surveys was $14.7 billion. The TWDB is continuing efforts to increase the response rate to surveys in order to ensure that the need for financial assistance from the state is fully comprehended. Additional information about the water infrastructure survey is included in Appendix K.

Based on the need for state financial assistance that was established through the survey process, the TWDB submitted an exceptional item request to the 80th Legislature for implementation of water infrastructure projects included in the 2007 State Water Plan. The 80th Legislature approved an investment of $762 million for the 2008-2009 biennium to fund State Water Plan projects.[12] The $762 million is the first installment of the $2.4 billion in state assistance that will be invested over the next 11 years. Local entities will provide the rest of the money to fund approximately $6 billion in water projects by 2020.[13]

CREATION OF JOINT COMMITTEE ON STATE WATER FUNDING

The appropriation made by the 80th Legislature for implementation of the State Water Plan was by far the single largest appropriation for water infrastructure in Texas history. However, the appropriation only addressed funding needs for projects through 2020 and did not establish a dedicated source of revenue to fund the remainder of the State Water

Plan. Recognizing the need to secure additional funding for water projects, Senator Kip Averitt authored S.B. 3 during the 80th Legislature. Article 5 of S.B. 3 established the Joint Committee on State Water Funding (Joint Committee) to continue studying this important issue. The Joint Committee was co-chaired by the chairmen of the Texas Senate and House committees on Natural Resources. The remaining membership consisted of three members of the Senate appointed by the Lieutenant Governor and three members of the House of Representatives appointed by the Speaker of the House of Representatives. Article 5 of S.B. 3 is provided in Appendix L.

On September 28, 2007, Speaker of the House of Representatives Tom Craddick appointed Representatives Brandon Creighton, Dan Gattis, and Will Hartnett to the Joint Committee. On December 3, 2007, Lieutenant Governor David Dewhurst appointed Senators Duncan, Kevin Eltife, and Juan "Chuy" Hinojosa to the Joint Committee. On February 20, 2008, Speaker Craddick appointed to the Joint Committee Representative Mike "Tuffy" Hamilton, Chairman of the House Committee on Natural Resources, which, by statutory direction, also made him Co-Chair of the Joint Committee. During the 80th Interim, the Joint Committee held three hearings.

INTERIM EFFORTS/ISSUE STATUS

MAY 14, 2008, JOINT COMMITTEE HEARING

The first hearing of the Joint Committee was held in Dallas, Texas, on May 14, 2008. A copy of the May agenda is provided in Appendix M. With respect to the State Water Plan, the goal of the first hearing was to review funding needs included in the plan,

review the portion of state assistance required for various projects, and to hear from stakeholders about their specific projects and mechanisms for funding implementation of those projects. At the hearing, Executive Administrator of TWDB Kevin Ward discussed the cost of implementing the water management strategies listed in the 2007 State Water Plan. The portion of Ward's testimony related to the cost of the State Water Plan is included in Appendix N. Testimony received from various stakeholders may be obtained through the Senate Committee on Natural Resources or by reviewing archives of hearing proceedings online at: http://www.senate.state.tx.us/75r/senate/CmArch.htm.

The Joint Committee also received testimony from TWDB and TCEQ regarding their water programs, sources of funding for those programs, and additional funding needs for the programs. Copies of testimony provided by the Executive Administrator of TWDB and the Executive Director of TCEQ regarding their water programs and respective funding needs are included in Appendix O.

JULY 9, 2008, JOINT COMMITTEE HEARING

The second hearing of the Joint Committee was held in The Woodlands, Texas, on July 9, 2008. The agenda for the July hearing is available in Appendix P. The goal of the second hearing was to review various revenue options that could be employed to fund the State Water Plan. Testimony regarding the benefits and challenges associated with using public/private partnerships to implement water infrastructure projects was also provided. Written testimony about public/private partnerships that was submitted to the Joint Committee is included in Appendix Q.

During the July hearing, Mr. Ward provided testimony highlighting a fiscal analysis of various funding options and a review of entities that would be impacted by each source of revenue. Highlights of Ward's testimony are included in Appendix R.

OCTOBER 21, 2008, JOINT COMMITTEE HEARING

The final interim hearing of the Joint Committee was held in Austin, Texas, on October 21, 2008. The agenda for the October hearing is provided in Appendix S. The goal of this hearing was to receive comments from stakeholders regarding five funding options included in a comprehensive TWDB report entitled *Potential Revenue Sources for Funding Texas Water Programs,* dated September 9, 2008. This report can be found in Appendix T. The five funding options that were addressed during the hearing include sales tax on retail sales of utility water and sewer, a water conservation and development fee, a water rights fee, a tap fee on public water supply connections, and the collection of sales tax on bottled water sales. A summary of the five funding options that were discussed at the hearing can be found in Appendix U.

The Joint Committee also received testimony from TWDB and TCEQ regarding future funding needs of the two agencies for state water programs. Information about exceptional item requests related to water programs submitted by TWDB and TCEQ to the 81st Legislature is included in Appendix V.

CONCLUSIONS

The establishment of a permanent funding source for full implementation of the State Water Plan is a necessary step in the state's efforts to prevent severe water shortfalls in the years ahead. Projected water infrastructure funding needs cannot be met solely through current levels of funding.

To determine the amount of funding needed to implement water infrastructure projects, the results of the infrastructure finance survey conducted by TWDB must be as accurate as possible. To achieve the highest level of accuracy, the Texas Legislature should assist TWDB in improving the response rate to the measure. Awarding financial assistance to entities that do not respond to the survey is a decision that should be carefully considered.

The 81st Legislature should utilize the information provided by the Joint Committee to determine the best method of establishing a permanent funding source for the State Water Plan. A source of permanent funding could be established through a proposed option included in the TWDB report, a combination of proposed options, or an alternative option. When examining water project financing options, lawmakers must consider which methods will result in the lowest cost to taxpayers.[14]

Establishing a dedicated source of funding for the State Water Plan ranks among the top obligations facing the Texas Legislature. An affordable, abundant, clean supply of water is fundamental to every aspect of future growth in this great state. Ensuring an adequate

water supply for future generations of Texans is not merely a quality of life issue; it is an existence of life issue that must be achieved.

[1] Kevin Ward, Executive Administrator, Testimony before the Joint Committee on State Water Funding, July, 9, 2008, The Woodlands, Texas.
[2] Texas Water Development Board, *Water for Texas 2007* - Volume I, October 2006.
[3] Texas Senate Research Center, "Joint Committee on State Water Funding," Capitol Clearinghouse Update, 1 June 2008, 28 - 32.
[4] Texas Water Development Board, *Water for Texas 2007* - Volume I, October 2006.
[5] Kevin Ward, Executive Administrator, Testimony before the Joint Committee on State Water Funding, May, 14, 2008, Dallas, Texas.
[6] Kevin Ward, Executive Administrator, Testimony before the Joint Committee on State Water Funding, May, 14, 2008, Dallas, Texas.
[7] Texas Water Development Board, *Infrastructure Financing Report*, October, 1, 2002, pg. 9.
[8] Texas Water Development Board, "TWDB State Loan through Rural Water Assistance Fund," <http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/RWAF.asp>.
[9] Texas Water Development Board, "Water Infrastructure Fund Loan Program Texas Water Development Fund," < http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/WIF.asp>.
[10] Carolyn Brittin, Deputy Executive Administrator, Water Resources Planning and Information, Personal Communication, January 21, 2009.
[11] Carolyn Brittin, Deputy Executive Administrator, Water Resources Planning and Information, Testimony before the Joint Committee on State Water Funding, May 14, 2008, Dallas, Texas.
[12] Leila Wurst, Governmental Relations, TWDB, Personal Communication, February 23, 2009.
[13] Kevin Ward, Executive Administrator, Testimony before the Joint Committee on State Water Funding, May 14, 2008, Dallas, Texas.
[14] Brian Sledge, Attorney-at-Law, Lloyd Gosselink Rochelle & Townsend, P.C., Testimony before the Joint Committee on State Water Funding, October, 21, 2008, Austin, Texas.

Appendix A

Steps Required to Develop a Regional Water Plan in Texas

- Scenario is the drought of record; supplies based on firm yield
- Fifty year planning horizon on 5-year cycles; decadal projections
- Project population; begin with census data as base
- Determine existing water demands for 6 sectors; (municipal, manufacturing, mining, steam-electric power, livestock, and irrigation)
- Calculate existing supplies; groundwater & surface water that are physically and legally available
- Compare existing supplies with demands over time to evaluate needs for additional water for each water user group (existing supply – demand = need or surplus)
- Evaluate potentially feasible strategies including conservation, drought management, reuse, existing supplies, & new supplies
- Evaluate all potentially feasible strategies for cost, quantity, reliability, and effects of strategies on agriculture, natural resources, water quality, other water resources
- Recommend water management strategies; may recommend alternate strategies
- Recommend ecologically unique stream segments and reservoir sites for legislative designation
- Make policy recommendations; regulatory, administrative or legislative
- Public participation during process; required meetings, hearings and adoption of plan; approval by TWDB

Appendix B

2007 State Water Plan Summary Data

(millions)	2000	2010	2020	2030	2040	2050	2060
Population	20.9	24.9	29.1	33.1	36.9	41.1	45.6
Water Demand (ac-ft)	17.0	18.3	19.0	19.6	20.1	20.8	21.6
Existing Supply (ac-ft)	---	17.9	16.9	16.1	15.4	15.0	14.6
Projected Needs (ac-ft)	---	3.7	4.9	5.9	6.9	7.8	8.8
Recommended Strategies (ac-ft)	---	3.6	5.3	6.2	6.8	8.2	9.0
Unmet Needs (ac-ft)	---	1.8	2.1	2.5	2.7	2.8	2.7
Capital Costs total = $30.7B		$3.6M	$5.3M	$6.2M	$6.8M	$8.2M	$9.0M

Financing Capital Costs of Strategies

Total Capital Costs = $30.7 billion
Total Capital Costs for Municipal Water User Groups = $29.3 billion

<u>IFR Survey of Municipal Water User Groups</u>

Additional State Assistance Needed from = $2.1 billion
Additional State Assistance Needed for 2010-2020 WMS = $1.7 billion

<u>Economic Impacts of Not Meeting Needs</u>

	2010	2020	2030	2040	2050	2060
Regional Income	$9.1B	$19.7B	$29.8B	$44.0B	$66.1B	$98.4B
State and Local Taxes	$466M	$968M	$1.5B	$2.2B	$3.3B	$5.4B
Jobs	119,000	244,000	376,000	552,000	802,000	1.2M
Lost Population	180,000	363,000	554,000	804,000	1.2M	1.8M
School Enrollment	-46,000	-93,000	-141,000	-196,000	-294,000	-438,000

Appendix C

Economic Impact Analysis for Water Supply Strategies Recommended in the 2007 State Water Plan

Introduction

The following document summarizes the economic impacts of implementing water supply management strategies identified in the 2007 State Water Plan including the:

1. potential avoided costs of implementing these projects and creating "drought-proof" water supplies in communities throughout Texas; and

2. economic multiplier effects of expenditures on project planning, design and construction supported via state financial assistance programs.

1) Avoided Costs of Implementing Water Management Strategies Recommended in the 2007 State Water Plan

As part of the state water plan, the TWDB developed economic impact models to measure the potential economic costs of not developing water supplies as recommended in the state water plan. If water supply strategies are not implemented, an event similar to the 1950s drought of record could cost water consumers in Texas an estimated $9.1 billion in 2010 (Table 1). In subsequent years, costs could increase substantially. For example, in 2060 estimated economic costs total $98.4 billion.

Table 1: Potential avoided costs of implementing water management strategies identified in the 2007 State Water Plan

Decade	Costs to water consumers ($billions)	Lost state and local businesses taxes ($billions)	Number of full and part time jobs lost
2010	$9.1	$0.5	119,000
2020	$19.7	$1.0	244,000
2030	$29.8	$1.5	376,000
2040	$44.0	$2.2	552,000
2050	$66.1	$3.3	802,000
2060	$98.4	$5.4	1,234,000

Source: 2007 State Water Plan.

2) Economic Impacts Associated with Expenditures on Project Planning, Design, and Construction Supported through State Financial Assistance Programs

Constructing water supply infrastructure projects would have an economic stimulus effect on the state's economy. Expenditures on materials, labor and increased income in economic sectors that provide planning, design and construction services would result in greater demands for goods and services in the state. In addition, investments could generate additional jobs and an overall increase in consumer spending. Using IMPLAN Pro software and data, regional economic models and multipliers that capture the direct and indirect economic impacts of implementing municipal water management strategies were estimated and applied to projected expenditures. Measured variables include:

- total sales revenues;
- income including wages and salaries paid by industries, corporate income, rental income, interest and corporate transfer payments;
- state and local business taxes consisting of sales taxes, excise taxes, property taxes, fees, licenses and other taxes paid during the normal operation of an industry (does not include any type of income tax); and
- employment measured by the number of full and part-time jobs (annual average) required by a given industry.

According to the state water plan, state appropriations to leverage TWDB financial assistance programs could provide approximately $2.4 billion worth of funding from 2009 through 2015 for project planning, design and construction. In terms of economic stimulus impacts this would:

- generate $3.41 billion in total sales revenues in the construction, engineering and materials sectors and supporting businesses;
- create $1.90 billion worth of income for Texas residents;
- generate $0.61 billion in state and local tax receipts; and
- support and/or create 32,840 full and part-time jobs.[1]

[1] Employment impacts refer to positions created or *supported* by spending. While it is true that many businesses affected by spending may hire new workers, many firms may not, and thus employment impacts should be considered an upper bound.

Appendix D

By Lewis of OrangeH.B. No. 1802

A BILL TO BE ENTITLED

AN ACT

relating to the development and management of the water resources of the state; assessing fees; making appropriations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 5, Water Code, is amended by adding Section 5.2361 to read as follows:

Sec. 5.2361. WATER RESOURCE MANAGEMENT ASSESSMENT. (a) To ensure the adequate support of the state's responsibilities for the management of water resources, including the development of available water supplies, the provision of adequate water utility services, and the protection of the quality of water and drinking water sources in the state, the commission is authorized to assess a fee to be collected from each public water supply system in the state.

(b) The fee shall be collected annually from the operator of each system authorized under Chapter 341, Health and Safety Code, to distribute drinking water to the public. The commission by rule shall establish a rate or rates for the fee for each user served by a public water system. The rates may reflect the type of water user and the amounts of water used by different classes of users. The fee for a residential customer shall not exceed a cost of $1 per month of each retail connection to a public water system.

(c) The operator of a public water system subject to an assessment under this section may retain five cents for each connection on its system to offset the administrative costs of the assessment and collection.

(d) The fees collected under this section shall be deposited to a special fund known as the water facilities fund established by Section 15.010 for use under that section.

SECTION 2. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1352 to read as follows:

Sec. 11.1352. ANNUAL WATER RIGHTS FEE. (a) The commission shall assess a fee for those water rights held under the authority of this chapter and specified in Subsection (b). A fee shall not be assessed for water rights for municipal use. The fee shall be paid annually and is based on the amount of the water authorized to be used.

(b) Fees under this section shall be assessed for the following uses and shall not exceed the following amounts:

(1) industrial--50 cents per authorized acre-foot;

(2) irrigation--10 cents per authorized acre-foot;

(3) other consumptive freshwater uses--50 cents per acre-foot; and

(4) hydro-power--one hundredth of one cent per kilowatt produced.

(c) Fees collected under this section shall be deposited to a special fund known as the water facilities fund established by Section 15.010 for use under that section.

(d) A water right holder within the jurisdiction of a watermaster authorized under this chapter who pays a fee to reimburse the watermaster for the expenses of that office is not subject to a fee for a water right under this section.

(e) To receive funding in accordance with Section 15.010(h), a political subdivision as defined under Chapter 15 holding a water right located in an area under the jurisdiction of a watermaster in accordance with Subsection (d) must pay fees in accordance with Subsection (b) and Section 15.010(i).

(f) To receive funding in accordance with Section 15.010(h), a groundwater conservation district must pay annual fees in accordance with Section 15.010(i) for the following uses and shall not exceed the following amounts:

(1) industrial--50 cents per acre-foot;

(2) irrigation--10 cents per acre-foot; and

(3) other--50 cents per acre-foot.

SECTION 3. Subchapter C, Chapter 11, Water Code, is amended by adding Section 11.0851 to read as follows:

Sec. 11.0851. COMPENSATION TO BASIN OF ORIGIN. (a) When approving applications under Section 11.085, the commission shall determine an amount of money that shall be paid to the benefit of the basin of origin to assist the basin of origin in providing projects to conserve, convey, and develop surface or subsurface water resources, to provide for the maintenance and enhancement of the quality of water, and to provide nonstructural or structural flood control. The amount of money to be paid shall not be less than $1 per authorized acre-foot per annum. In determining that amount, the commission shall consult with the board and consider, in part, the projected future needs of the basin of origin as identified in the state water plan.

(b) The compensation that the commission determines shall be paid for the benefit of the basin of origin under Subsection (a) shall be deposited to the water facilities fund established by Section 15.010. The compensation shall be paid annually so long as the transfer is authorized.

(c) Payments deposited under Subsection (b) into the water facilities fund shall be accounted for separately according to the appropriate basin of origin. These funds shall not be calculated in determining the percentage of funds allocated under Sections 15.010(d) and (e). These funds may be used by the board to benefit the basin of origin:

(1) by providing financial assistance, including low-interest loans, to political subdivisions located in the basin of origin for projects under Section 15.102(a);

(2) for acquisition of projects under Subchapter E, Chapter 15, or Subchapter E, Chapter 16;

(3) for payment of debt service on bonds issued for state participation by the board for projects that benefit the basin of origin; or

(4) for other purposes for which board funding programs may be used to benefit the basin of origin.

SECTION 4. Sections 15.001(5) and (6), Water Code, are amended to read as follows:

(5) "Political subdivision" means a state agency, city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, any other political subdivision of the state, any interstate compact commission to which the state is a party, and any [~~nonprofit~~] water supply or sewer service corporation as defined by Section 13.002 [~~created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes)~~].

(6) "Project" or "facility" means:

(A) any undertaking or work to conserve, convey, and develop surface or subsurface water resources in the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide nonstructural and structural flood control, drainage, subsidence control, recharge, chloride control, and desalinization, to provide for the acquisition of water rights and the repair of unsafe dams, and to carry out other purposes defined by board rules; or

(B) any undertaking or work outside the state to provide for the maintenance and enhancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine.

SECTION 5. Section 15.002(a), Water Code, is amended to read as follows:

(a) The legislature finds that it is in the public interest and to the benefit of the general public of the state to encourage and to assist in the planning and construction of projects to develop and conserve the storm water and floodwater as well as the ordinary flows of the rivers and streams of the state and of the subsurface water resources in the state, to maintain and enhance the quality of the water of the state, to provide protection to the state's citizens from the floodwater of the rivers and streams of the state, to provide drainage, subsidence control, public beach nourishment, recharge, chloride control, and desalinization, to allow the purchase of water rights for future transfer or for use, or for holding or retiring for environmental purposes, to provide a mechanism for state acquisition and enhancement of fish or wildlife habitat, and other purposes as provided by law or board rule.

SECTION 6. Section 15.008, Water Code, is amended to read as follows:

Sec. 15.008. Grant Standards. Chapter 783, Government Code, [~~The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes)~~] does not apply to a contract under Subchapter C, F, H, J, [~~or~~] K, or L of this chapter.

SECTION 7. Subchapter B, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER B. WATER FACILITIES FUND AND WATER ASSISTANCE FUND

Sec. 15.010. WATER FACILITIES FUND. (a) The water facilities fund is created as a fund in the state treasury and shall be administered by the board under this chapter and rules adopted by the board. The fund is created and shall be maintained to provide funding for the state's various programs for water resources development and management.

(b) The water facilities fund shall consist of:

(1) appropriations from the legislature;

(2) fees dedicated by Sections 5.2361, 11.0851, and 11.1352;

(3) any fees or sources of revenue that the legislature may dedicate for deposit to the fund;

(4) repayments of loans from the water loan assistance fund;

(5) money from the purchase or lease of state ownership interests in projects under Subchapter E;

(6) interest earned on the fund;

(7) money from gifts, grants, or donations to the fund;

(8) money from any other source designated by the legislature or the board; and

(9) funds received from the sale of any political subdivision bonds or obligations held in the water loan assistance fund or the project acquisition fund.

(c) A portion of the fee revenues deposited in the water facilities fund, not to exceed 11.8 percent, shall be transferred and used to fund any of the operating expenses of the commission relating to water resources management and protection. Money appropriated to the commission from fees collected under Section 5.2361 may be used to supplement any other funds available to

the commission for the purposes of supporting the commission's regulatory and water resource programs under this code and Chapter 341, Health and Safety Code. Money appropriated to the commission from fees collected under Section 11.1352 may be used to supplement any other funds available to the commission in the administration of Chapter 11 and other provisions of this code relating to the management of the surface water resources of the state. Any amounts appropriated from the water facilities fund to the commission may be transferred to and appropriated from the water resource management account in the general revenue fund.

(d) The legislature hereby appropriates without further legislative action any funds deposited in the water facilities fund under Subsections (b)(4), (5), and (9) and 50 percent of the money in the water facilities fund remaining after uses prescribed by Subsection (c). The board by rule shall determine the manner to provide financial assistance from these funds through the following financial assistance programs of the board, including financial assistance for hardship projects, and shall determine the amount of money allocated for transfer to:

(1) the water assistance fund established under Section 15.011 to be used for loans from the water loan assistance fund and for project acquisition under Subchapter E;

(2) the development fund clearance fund established under Section 17.077(a) or to any fund created for payment of bonds issued for the purposes authorized by Section 49-d, Article III, Texas Constitution, such transfers under this subdivision to be used only to support payments of bonds issued or contracts executed for state acquisition of facilities under Section 49-d, Article III, Texas Constitution;

(3) the agricultural water conservation fund established under Subchapter J, Chapter 17, to be used for purposes authorized by law;

(4) the state water pollution control revolving fund or additional state revolving funds under Subchapter J;

(5) the Texas water resources fund established under Subchapter I, Chapter 17, for purposes authorized by law. The board may pledge not to exceed one-half of the first revenues dedicated for deposit into the water facilities fund from fees under Sections 5.2361 and 11.1352

to be used without further appropriation to make payments on revenue bonds issued under the authority of Subchapter I, Chapter 17; and

(6) the general revenue fund for use without further appropriation for purposes of providing operational expenses of the board in an amount not greater than two and one-half percent times the amount of financial assistance provided by the board from the water facilities fund for the purposes of providing the financial assistance authorized in this act.

(e) The legislature hereby appropriates without further legislative action the money deposited annually into the water facilities fund and remaining after uses prescribed by Subsections (c) and (d). Money appropriated by this subsection shall be divided annually and equally among the following categories:

(1) acquisition of real property necessary for water supply projects;

(2) reservoir construction;

(3) water and wastewater treatment and conveyance facilities, including reuse facilities;

(4) conservation, including aquifer recharge;

(5) weather modification;

(6) brush control and reestablishment of grassland;

(7) flood control and drainage;

(8) salinity control;

(9) dam repairs;

(10) nonpoint source pollution control; and

(11) for transfer to the conservation and restoration fund at the request of the Parks and Wildlife Department for use under Subchapter O.

(f) Funds allocated by Subsection (e) to be used under Subdivisions (1)-(10) of that subsection shall be transferred by the board from the water facilities fund in amounts determined by the board to the water loan assistance fund, the project acquisition fund, the pilot weather modification fund, the research and planning fund, or any other fund in the water assistance fund

from which grants may be made, to be used as provided by law. However, none of the funds shall be used for making grants for purposes specified in Section 15.102(b) or 15.407 or Subchapter K, Chapter 17. On a finding of imminent public necessity, the board annually may redistribute up to 15 percent of the funds appropriated among Subdivisions (1)-(10) of Subsection (e) to be used for any of the purposes in those subdivisions. At the request of the Parks and Wildlife Department, funds allocated by Subsection (e)(11) shall be transferred to the conservation and restoration fund for use under Subchapter O.

(g) The board may invest, reinvest, and direct the investment of money accumulated in the water facilities fund as provided by law for the investment of money under Section 404.024, Government Code.

(h) Political subdivisions that are required to pay fees under Sections 11.0851 and 11.1352, or that are required to assess fees under Section 5.2361, are not eligible to receive financial assistance made available from the water facilities fund unless they have paid, or collected and paid, such fees since the inception of the fund.

(i) To be eligible to receive financial assistance made available from the water facilities fund, a political subdivision that is not required to pay fees under Section 11.0851 or 11.1352 may agree to pay fees equivalent to fees that would have been paid had the fees been collected since inception of the act, with accrued interest at a rate determined by board rule, under the following conditions:

(1) the fees shall be paid within one year of the effective date of this act; or

(2) the political subdivision must obtain legislative authorization to later pay such fees. The board by rule shall establish the methods for allowing such political subdivisions to make payments of fees that have not previously been paid.

(j) The payment of fees to establish eligibility under Subsections (h) and (i) does not guarantee a political subdivision will receive funding made available by the water facilities fund.

(k) The water facilities fund may not be used to provide grants or loans of any type for projects eligible for economically distressed areas funding or for payment of debt service on

bonds issued pursuant to Section 49-d-7(e), Article III, Texas Constitution, nor shall the fund be used to benefit projects approved before passage of the bill creating the water facilities fund. Not more than five percent of any of the money contributed annually to the fund shall be used by the board to purchase water rights, nor shall any board funds be used to purchase water rights for environmental purposes.

Sec. 15.011. Water Assistance Fund. (a) The water assistance fund is created and shall be administered by the board under this chapter and rules adopted by the board.

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C of this chapter, the project [~~storage~~] acquisition fund created under Subchapter E of this chapter, the research and planning fund created under Subchapter F of this chapter, [~~and~~] the hydrographic survey account created under Subchapter M of this chapter, the pilot weather modification fund created under Subchapter N of this chapter, and the conservation and restoration fund created under Subchapter O of this chapter, provided the hydrographic survey account transfer does not exceed $425,000.

[~~(c) The board may transfer money in the fund to the water bank account to be used by the board for administration and operation of the Texas Water Bank.~~]

Sec. 15.012. Management of Fund. (a) The board may invest, reinvest, and direct the investment of money accumulated in the fund.

(b) Money appropriated by the legislature to the fund shall be deposited in this fund. Gifts or grants from the United States government, local or regional governments, private sources, or other sources may be deposited in this fund. Money from the water facilities fund shall be deposited in this fund at the direction of the legislature or the board.

(c) Money appropriated to the fund by the legislature for a specific purpose stated in Subchapter C, E, F, [~~or~~] M, N, or O of this chapter or appropriated to any other fund into which money from the fund may be transferred shall be placed in the appropriate fund created by that subchapter.

(d) The money held in the fund may be invested as provided by law for investment of money under Section 404.024, Government Code.

SECTION 8. Section 15.101(b), Water Code, is amended to read as follows:

(b) Repayments of loans shall be deposited in the water facilities [~~assistance~~] fund.

SECTION 9. Section 15.102, Water Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) The loan fund may be used by the board to provide loans of financial assistance to political subdivisions, federal agencies, or both political subdivisions and federal agencies acting jointly for the construction, acquisition, improvement, or enlargement of projects, including those involving water conservation, water development, or water quality enhancement, conveyance facilities, nonpoint source pollution control, or providing nonstructural and structural flood control, or drainage, or project recreation lands and revenue-generating recreational improvements within any watershed, including projects for the purposes of [~~or~~] providing recharge, chloride control, subsidence control, repair of unsafe dams, acquifer recharge, brush control and reestablishment of grasslands, weather modification or desalinization, purchase of land for projects eligible for any other funding of the board, the acquisition of land or options for acquisition of land to preserve such land for future water supply projects, for creation and not to exceed two years' operational expenses for newly formed districts or authorities created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, as provided by legislative appropriations, this chapter, and the board rules.

(e) The board by rule shall establish the interest rate for loans made from the loan fund, which shall be at or below market interest rates.

(f) The board may make grants to political subdivisions for the purposes listed in Section 15.010(e) in amounts not to exceed 90 percent of the net cost of a project to political subdivisions after deducting federal funds available for the project. The board may provide a grant under this subsection only if, after making the findings required in Sections 15.105(1) and (3), the board finds there is broad state interest not directly benefiting the grantee alone that

warrants the grant in the amount approved by the board or the board finds the project can be reasonably accomplished only with a grant in the amount approved by the board. The board by rule shall establish the procedure for grant applications and the method for ranking which projects receive funds for grants.

SECTION 10. Section 15.105, Water Code, is amended to read as follows:

Sec. 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for financial assistance under Section 15.102(a) or (b) from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the applicant from all sources for the ultimate repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs;

(4) the ability of the applicant to finance the project without state assistance; and

(5) for applications for grants for economically distressed areas, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services.

SECTION 11. The heading to Subchapter E, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER E. PROJECT [~~STORAGE~~] ACQUISITION PROGRAM

SECTION 12. Section 15.301, Water Code, is amended to read as follows:

Sec. 15.301. Fund Created. There is created a fund in the state treasury to be known as the project [~~storage~~] acquisition fund which is to be funded by direct appropriations and by transfers from the fund at the discretion of the board or direction of the legislature.

SECTION 13. Section 15.302(a), Water Code, is amended to read as follows:

(a) The board may use the project [~~storage~~] acquisition fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of any existing or proposed [~~water storage~~] project and including the acquisition of land or options for the acquisition of land to preserve such land for future water supply projects.

SECTION 14. Sections 15.304 and 15.306, Water Code, are amended to read as follows:

Sec. 15.304. Permits Required. Except as provided by Section 15.3041 of this code, the board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board, and for any other permit required by state law, and may expend funds from the project acquisition fund for such purposes.

Sec. 15.306. Board Findings. Before the board may acquire [~~storage~~] facilities [~~in any reservoir~~], the board shall find affirmatively that:

(1) [~~it is reasonable to expect that the state will recover its investment in the facilities;~~

[~~(2)~~] the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;

(2) [~~(3)~~] the public interest will be served by acquisition of the facilities; [~~and~~]

(3) [~~(4)~~] the facilities to be constructed or reconstructed contemplate the optimum development of the project [~~site~~] which is reasonably reserved under all existing circumstances; and

(4) the needs addressed by the project will be addressed in a manner consistent with the state water plan, unless the board determines that conditions warrant waiver of this requirement [~~of the site~~].

SECTION 15. Section 15.3061(a), Water Code, is amended to read as follows:

(a) If money is not available in the fund to provide money for projects approved under this subchapter, the board shall prepare and submit with its biennial budget request to the Legislative

Budget Board and to the presiding officers of each house of the legislature a list of all projects approved by the board under this subchapter or that could have been funded had sufficient funds been available.

SECTION 16. Section 15.307, Water Code, is amended to read as follows:

Sec. 15.307. Facilities Wanted by Political Subdivision. The board shall not acquire any facility to the extent that the board finds that the political subdivision:

(1) is willing and reasonably able to finance the acquisition of the facility;

(2) has not qualified by obtaining the necessary permit; however, the board may make a commitment to acquire a facility contingent upon all needed permits being obtained by the political subdivision or the board; and

(3) has proposals that are inconsistent with the objectives of the state water plan.

SECTION 17. Section 15.308(a), Water Code, is amended to read as follows:

(a) The board may execute contracts which include but are not limited to the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed [~~storage~~] project.

SECTION 18. Section 15.309, Water Code, is amended to read as follows:

Sec. 15.309. Specific Contracts Authorized. Contracts authorized by Section 15.308 of this code include but are not limited to the following:

(1) federal grants or grants from other sources;

(2) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;

(3) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or portion of the project; and

(4) contracts secured by the pledge of all or any part of funds in the facilities [~~storage~~] acquisition fund.

SECTION 19. Section 15.313(a), Water Code, is amended to read as follows:

(a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the facilities [~~storage~~] acquisition fund.

SECTION 20. Sections 15.314 and 15.316, Water Code, are amended to read as follows:

Sec. 15.314. Permit Required. Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure all permits [~~a permit~~] for water use or other permits for operation of the project from the commission. If the facilities are to be leased, the permit may be for a term of years.

Sec. 15.316. PROJECT [~~RESERVOIR~~] LAND. The board may lease acquired project [~~reservoir~~] land until construction of the project [~~dam~~] is completed without the necessity of a permit issued by the commission.

SECTION 21. Sections 15.317(a) and 15.318(a), Water Code, are amended to read as follows:

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the disbursement of funds to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, plus a portion of the board's cost of administering the facilities acquisition program under this subchapter, less any payments received by the board from the lease of the facility or the sale of water from it.

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition, by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of disbursement of the money to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, plus a portion of the board's cost of administering the facilities acquisition program under this subchapter, less any payments received by the board from the lease of the facility or the sale of water from it.

SECTION 22. Sections 15.319-15.324, 15.326, and 15.327, Water Code, are amended to read as follows:

Sec. 15.319. Costs Defined. With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid plus the amounts the board has agreed to pay under obligations not transferred to the purchaser for a facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility nor the board's cost of administering the facilities acquisition program under this subchapter.

Sec. 15.320. Lease Payments. In leasing a state facility for a term of years, the board shall require [~~annual~~] payments that will recover over the lease period not less than the total of:

(1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and

(2) the state's annual cost for operation, maintenance, and rehabilitation of the facility, including a portion of the board's cost of administering the facilities acquisition program under this subchapter.

Sec. 15.321. Sale or Lease: Condition Precedent. (a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

(1) that the applicant has a permit granted by the commission if such permit is required for operation of the project;

(2) that the sale, transfer, or lease serves the public interest; and

(3) that the consideration for the sale, transfer, or lease is fair, just, reasonable, and in full compliance with the law.

(b) The consideration for a sale or transfer may be either money or [~~revenue~~] bonds which for the purposes of this section shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by Sections 15.317-15.318 of this code, or if [~~revenue~~] bonds constitute the consideration, the principal amount of [~~revenue~~] bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Sections 15.317-15.318 of this code, and the [~~revenue~~] bonds shall bear interest at the rate prescribed in Section 17.128 of this code with regard to bonds purchased with the proceeds of the Texas water development fund.

Sec. 15.322. Disposition of Proceeds. (a) The money received from any sale, transfer, or lease of facilities, or in the case of a sale or transfer involving [~~revenue~~] bonds, the money received as matured interest or principal on the bonds shall be placed in the water facilities [~~general revenue~~] fund.

(b) If money received from a sale, transfer, or lease of facilities, or in the case of a sale or transfer involving [~~revenue~~] bonds, if the money received as matured interest or principal on the bonds, is money derived originally from the appropriation made in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on that money, the money received as matured interest or principal on the bonds shall be placed in a special account in the water assistance fund.

Sec. 15.323. Sale of Stored Water. (a) The board may sell any unappropriated public water of the state and other water acquired by the state or board that is stored by or for it. The price shall be determined by the board.

(b) Except as provided by Subsection (c) of this section, money received from any sale shall be placed in the water facilities [~~general revenue~~] fund.

(c) Money received from a sale of unappropriated public water or other water acquired by the state or board and stored by it or for it in a facility for which funds were provided from the appropriation made in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on the money constituting that appropriation, must be deposited in a special account in the water assistance fund.

Sec. 15.324. Sale Contract: Provisions, Limitations. (a) The board may determine the consideration and other provisions to be included in water sale contracts, or in contracts for treatment of waste or any other use of any board facility, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water or holding capacity for waste treatment for use and actual treatment.

(b) The board shall make the same determinations with respect to the sale of water or other use of board-owned facilities as are required by Section 15.321 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivisions in the sale of water or use of facilities when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own [~~water supply~~] projects.

Sec. 15.326. Preferences. The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water or capacity from facilities. For water use, preferences [~~Preferences~~] shall be given in these respects in accord with the provisions of Section 11.123 of this code. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

Sec. 15.327. Lease of Land Prior to Project Construction. The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall provide for expiration before completion [~~initiation~~] of project construction. The money received from such leases shall be placed in the water facilities [~~assistance~~] fund.

SECTION 23. Chapter 15, Water Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. PILOT WEATHER MODIFICATION PROGRAM

Sec. 15.821. PROGRAM CREATION. The pilot weather modification program is created to provide money for research into the effectiveness of weather modification operations to augment existing surface water and groundwater supplies to the benefit of agricultural operations, surface water users, groundwater users, or the general economy of the state. This research program operated by the board shall be designed and operated for a sufficient number of years to provide scientifically supportable determinations as to the effectiveness of weather modification.

Sec. 15.822. PILOT WEATHER MODIFICATION FUND. The pilot weather modification fund is created, to be funded by direct appropriation and from money transferred to the fund under Section 15.010(f).

Sec. 15.823. FINANCIAL ASSISTANCE. The pilot weather modification fund may be used by the board to provide grants to any person for research into any matter related to determining the effectiveness of weather modification as described in Section 15.821.

Sec. 15.824. REPORTS. The board, with the assistance of the commission, shall provide reports to the legislature and the governor each biennium on progress made in determining the effectiveness of weather modification.

SECTION 24. Chapter 15, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. CONSERVATION AND RESTORATION PROGRAM

Sec. 15.841. PROGRAM CREATION. The conservation and restoration program is established to provide money to assist in meeting mitigation requirements and enhancing conservation benefits of water projects, securing water rights for fish and wildlife, and other necessary expenditures to assure that water projects may be completed in a timely fashion and maximize the project's water and conservation benefits.

Sec. 15.842. CONSERVATION AND RESTORATION FUND. The conservation and restoration fund is created to be funded by direct appropriation and from money directed to be transferred to the fund under Section 15.010(f). The conservation and restoration fund shall be administered by the Parks and Wildlife Department.

Sec. 15.843. FINANCIAL ASSISTANCE. The conservation and restoration fund may be used by the Parks and Wildlife Department to assist in meeting mitigation requirements and enhancing conservation benefits of water projects, securing water rights for fish and wildlife, and other necessary expenditures to assure that water projects may be completed in a timely fashion and maximize the project's water and conservation benefits.

Sec. 15.844. BENEFICIAL USE OF WATER RIGHTS. The use of any state water right by the Parks and Wildlife Department under this program for conservation purposes shall be classified as a beneficial use as defined in Section 11.002.

SECTION 25. Section 17.077(a), Water Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, and except for proceeds from the sale of bonds and proceeds from the sale, refunding, or prepayment, of political subdivision bonds acquired in carrying out the purposes in Article III, Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-6, and 49-d-7, of the Texas Constitution, and the proceeds from the sale, refinancing, or other liquidation of the investments made under Section 17.083 of this code which shall be deposited in the fund that provided the money for the investment, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans and transfers thereto by the board from any and all sources available to it, shall be credited to the clearance fund. Money in the clearance fund may

be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

SECTION 26. Section 17.853(c), Water Code, is amended to read as follows:

(c) The board may use the fund only:

(1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J of Chapter 15 of this code;

(2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), and other participants;

(3) to provide financial assistance to participants for the construction of [~~water supply~~] projects authorized by Section 15.102(a) of this code [~~and treatment works~~];

(4) to provide financial assistance for an interim construction period to participants for projects for which the board will provide long-term financing through the water development fund; and

(5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K of Chapter 17 of this code to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance program of the board.

SECTION 27. Section 17.859(a), Water Code, is amended to read as follows:

(a) The board may issue its revenue bonds for the purpose of providing money for the fund[~~,~~] and may deposit into the fund all money authorized by law to be placed in the fund. Money [~~the money~~] in the fund shall be used for acquiring interests in projects and for providing financial assistance to participants in accordance with this subchapter.

SECTION 28. Section 16.001(7), Water Code, is amended to read as follows:

(7) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI,

Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party and any [~~nonprofit~~] water supply or sewer service corporation as defined by Section 13.002 [~~created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes)~~].

SECTION 29. Section 17.001(6), Water Code, is amended to read as follows:

(6) "Political subdivision" means a state agency, a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party and any [~~nonprofit~~] water supply or sewer service corporation as defined by Section 13.002 [~~created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes)~~].

SECTION 30. Section 5.235(n), Water Code, is repealed.

SECTION 31. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Appendix E

Sec. 11.1352. ANNUAL WATER RIGHTS FEE. (a) The commission shall assess a fee for water rights held under the authority of this chapter and specified under Subsection (b). A fee shall not be assessed for water rights for municipal use. The fee shall be paid annually and is based on the amount of the water authorized to be used.

(b) Fees under this section shall be assessed for the following uses and shall not exceed the following amounts:

(1) industrial: 50 cents per authorized acre-foot;

(2) irrigation: 10 cents per authorized acre-foot;

(3) other consumptive freshwater uses: 50 cents per acre-foot; and

(4) hydro-power: one hundredth of one cent per kilowatt produced.

(c) Fees collected under this section shall be deposited to a special fund known as the water infrastructure fund established by Section 15.903.

(d) A water right holder within the jurisdiction of a watermaster authorized under this chapter who pays a fee to reimburse the watermaster for the expenses of that office is not subject to a fee for a water right under this section.

(e) To receive funding in accordance with Subchapter O, Chapter 15, a political subdivision as defined under Chapter 15 holding a water right located in an area under the jurisdiction of a watermaster in accordance with Subsection (d) must pay fees in accordance with Subsection (b) and Subchapter O, Chapter 15.

(f) A groundwater conservation district must pay annual fees in accordance with Section 15.010 to receive funding under that section. The fees shall be for the following uses and may not exceed the following amounts:

(1) industrial: 50 cents per acre-foot;

(2) irrigation: 10 cents per acre-foot; and

(3) all others: 50 cents per acre-foot.

Sec. 15.013. WATER FEE. (a) Each county shall annually remit to the comptroller for deposit to the water infrastructure fund a water fee in an amount equal to one dollar per county resident as determined by the most recent federal census.

(b) A county may collect this fee from its residents in a manner and in amounts determined by the county.

Sec. 36.122. TRANSFER OF GROUNDWATER OUT OF DISTRICT.

(a) If a permit or an amendment to a permit under Section 36.113 proposes to transfer groundwater outside of a district's boundaries, the district may also consider the provisions of this section in determining whether to grant or deny the permit.

(b) A district may promulgate rules requiring a person to obtain a permit or an amendment to a permit under Section 36.113 from the district for the transfer of groundwater out of the district to:

(1) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or

(2) transfer groundwater out of the district on or after March 2, 1997, under a new arrangement.

(c) The district may not impose more restrictive permit conditions on transporters than the district imposes on existing in-district use.

(d) [~~(b)~~] The district may impose a reasonable fee for processing an application [~~for a permit~~] under this section. The fee may not exceed fees that the district imposes for processing other applications under Section 36.113. An application filed to comply with this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant.

(e) The district may impose a reasonable fee or surcharge for an export fee not to exceed:

(1) a fee negotiated between the district and the transporter;

(2) the equivalent of the district's tax rate per hundred dollars of valuation for each thousand gallons of water transferred out of the district or 2.5 cents per thousand gallons of water, if the district assesses a tax rate of less than 2.5 cents per hundred dollars of valuation; or

(3) for a fee-based district, an additional 50 percent export surcharge, in addition to the district's production fee, for water transferred out of the district.

(f) A district may not impose a fee under Subsection (e) on withdrawal of water from land owned prior to March 1, 2001, by a political subdivision if the political subdivision pays a tax mitigation fee under Section 36.206(c)

[~~(c) Before issuing a permit under this section, the district must give notice of the application and hold a public hearing.~~]

[~~(d) In determining whether to issue a permit under this section, the district shall consider:~~]

[~~(1) the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;~~]

[~~(2) the availability of feasible and practicable alternative supplies to the applicant;~~]

[~~(3) the amount and purposes of use in the proposed receiving area for which water is needed;~~]

[~~(4) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and~~]

[~~(5) the approved regional water plan and certified district management plan~~].

(g) [~~(e)~~] The district may not deny a permit based on the fact that the applicant seeks to transfer groundwater outside of the district [~~limit a permit issued under this section if conditions in Subsection (d) warrant the limitation~~].

(h) [~~(f)~~] In addition to conditions provided by Section

36.1131, the permit shall specify:

(1) the amount of water that may be transferred out of the district; and

(2) the period for which the water may be transferred.

(i) The period specified by Subsection (h)(2) shall be:

(1) five years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or

(2) 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.

(j) A term of five years under Subsection (i) shall automatically be extended to 30 years if construction of a conveyance system is begun before the expiration of the initial five-year term.

(k) In its determination of whether to renew a permit issued under this section, the district shall consider relevant and current data for the conservation of groundwater resources and shall consider the permit in the same manner it would consider any other permit in the district.

(l) A district is prohibited from using revenues obtained under Subsection (e) to prohibit the transfer of groundwater outside of a district.

(m) A district that charges a fee under Subsection (e) shall provide 50 percent of any revenues resulting from such fee to the water infrastructure fund annually beginning September 1, 2002.

(n) [~~(g) A district may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.~~]

[~~(h)~~] This section applies only to a transfer of water that is initiated or increased after March 1, 2001 [~~the effective date of this section~~].

(o) [~~(i)~~] A district shall adopt rules as necessary to implement this section.

SECTION 2.47. Section 36.206, Water Code, is amended by adding Subsection (c) to read as follows:

(c) Political subdivisions that own property that is suitable for groundwater development shall annually pay a district in which the property is located a fee that is equal to the taxes that would be paid to the district if the land were not owned by a political subdivision.

77(R) SB 2 Introduced version - Bill Text

SECTION 4.27. Section 151.801, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) The proceeds due the state from the collection of the taxes imposed by this chapter on the sale of domestic sewage service and domestic potable water service shall be deposited in the general revenue fund to the credit of the water infrastructure fund.

To Kevin Ward
From Robert Rose

Appendix F

TEXAS WATER DEVELOPMENT BOARD

P.O. Box 13231,
Capitol Station
Austin, TX
78711-3231

Phone: 512.463.7847
FAX: 512.475.2053

URL Address:
http://www.twdb.state.tx.us

Email Address:
info@twdb.state.tx.us

Texas Natural Resources Information System (TNRIS)
http://www.tnris.state.tx.us

Borderlands Information Center (BIC)
http://www.bic.state.tx.us

Water Information Integration and Dissemination (TWDB WIID System)
http://wiid.twdb.state.tx.us/

RURAL WATER ASSISTANCE FUND

WHAT IS THE RWAF PROGRAM AND WHO CAN APPLY?

The Texas Water Development Board (TWDB) administers the Rural Water Assistance Fund (RWAF), created in 2001 by the 77th Texas Legislature. The RWAF program is designed to assist small rural utilities to obtain low cost financing for water and wastewater projects. The TWDB offers tax exempt, attractive interest rate loans with short and long-term finance options. Eligible borrowers are defined as Rural Political Subdivisions which include nonprofit water supply corporations, water districts, or municipalities serving a population of up to 10,000, or that otherwise qualify for federal financing, or counties in which no urban area has a population exceeding 50,000.

HOW CAN RWAF LOANS BE USED?

The RWAF loans may be used to fund water-related capital construction projects including, but not limited to, line extensions, overhead storage, the purchase of well fields, and the purchase or lease of rights to produce groundwater. Water quality enhancement projects such as wastewater collection and treatment projects are also eligible projects in addition to interim financing of construction projects. Costs of planning, design, and construction are all eligible for funding. The RWAF may also be used to enable a rural utility to obtain water or wastewater service supplied by a larger utility or to finance the consolidation or regionalization of a neighboring utility.

WHAT LOAN TERMS ARE OFFERED THROUGH THE RWAF?

This flexible term finance program provides borrowers with tax exempt loans with attractive interest rates, up to a 40-year maturity on loans (consistent with the useful life of the project), and quick turn-around

➢

for Texas

time on loan applications. In addition, non-profit water supply corporations are exempt from paying sales tax incurred on any project financed by the program. A rural utility may also enter into an agreement with a federal or state agency to submit a joint application for financial assistance.

WHAT ARE THE APPLICATION REQUIREMENTS?

Applicants should schedule a pre-application conference with the TWDB and obtain guidance on completing a funding application. The application materials must include general system information such as rates and customer base, operating budgets, financial statements, preliminary engineering planning and environmental information, and project information. In approving a loan application, the TWDB considers: (1) the needs of the area to be served by the project; (2) the benefit of the project to the area; (3) the relationship of the project to the overall state water needs; (4) the relationship of the project to the State Water Plan; and (5) the availability of all sources of revenue to the rural utility for the ultimate repayment of the project cost. An application is due on the first business day of the month preceding the month during which the application is to be considered by the TWDB Board. The Board usually meets in Austin once every month to consider financial assistance applications.

COMMITMENT AND FUNDING

Upon approval of the application, the TWDB extends the applicant a loan commitment, provides an acknowledgement letter and other necessary loan and authorizing documents. The applicant approves and authorizes the project financing package at a public meeting. The project loan is closed and funds are then released for planning, with subsequent releases from escrow based on rules-determined milestones.

OTHER REQUIREMENTS

The applicant must complete the remaining engineering and other regulatory requirements as outlined in the application guidance materials. The applicant is required to solicit bids for the project prior to commencement of construction. Terms for loan repayment are flexible, depending on the applicant's needs.

WHERE MAY I GET MORE INFORMATION?

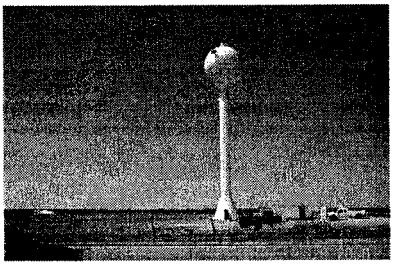
To receive additional information or to request a pre-loan meeting, please contact the Texas Water Development Board at 512-463-8491. Information is also available on the TWDB web site at www.twdb.state.tx.us/assistance/financial/financial_main.asp.

Appendix G

Water Infrastructure Fund Loan Program

Texas Water Development Fund

Application deadline is January 2, 2009 has passed. Next Application deadline is pending and will be posted asap



Related Links

Financial Assistance Application Procedure Guidelines

Program Guidance Manuals, Other Forms and Guidelines

Tentative Board Meeting Schedule

Interest rates

Rules

Financial Assistance Index

Frequently Asked Questions

What Is the Water Infrastructure Fund (WIF)?
Financial assistance for the planning, design and construction of State Water Plan projects may be obtained from the Water Infrastructure Fund (WIF). The 80th Texas Legislature (2007) appropriated funding to enable issuance of $440 million in bonds for WIF to fund water plan projects through the current biennium. This amount is estimated to meet a portion of the water supply needs identified in the 2007 State Water Plan through 2020. Additional funds will be needed to meet the additional water supply needs through the 2060 planning horizon.

Who Can Apply?
To apply for state financial assistance, the applicant must be a political subdivision of the state. Political subdivisions include municipalities, counties, river authorities, special law districts, water improvement districts, water control and improvement districts, irrigation districts, and groundwater districts.

How Can WIF Loans Be Used?
Projects must be recommended water management strategies in the most recent Texas Water Development Board (TWDB) approved regional water plan or approved State Water Plan. Funds may not be used to maintain a system or to develop a retail distribution system.

What Terms Are Offered For Water Plan Funding?
Loans for planning, design, and construction can be funded through the WIF. All loans through the WIF are offered at a subsidized interest rate which is 2 percent below the TWDB's cost of funds. Repayment periods are a maximum of 20 years. Certain loans for development costs have an additional financial opportunity. In order to advance projects which have significant development lead times, a portion of the WIF is available specifically for planning, design, permitting, and other costs associated with state or federal regulatory activities. Utilizing this WIF-Deferred, an applicant may defer all interest and principal payments for up to 10 years, or until the end of construction of the project, whichever is sooner. Interest is not accrued during the deferral period and the loan is amortized over the final 10 years.

How Do I Apply?
Potential applicants are encouraged to meet with TWDB staff for a pre-application conference at which the preparation of the application and the terms

of the loan will be discussed. Applications include a preliminary engineering feasibility report and known environmental information, as well as general, fiscal and legal application information.

Applications must be received by the first business day in January or July. Project applications received by those dates will be prioritized relative to all other project applications received for that round of funding. The projects will be prioritized based on whether they meet the priority criteria relative to all other projects being assessed. The tie-breaker will be the projects with the lowest annual median household income based on the most current data available from the U.S. Census Bureau for all of the areas to be served by the project.

What Are the Conditions of the Financial Assistance?

- ***Security Instrument:*** Bonds from Political Subdivisions.
- ***Pledge:*** System revenues and/or tax pledges are typically required. Contract revenue pledges for river authorities and others are possible.
- ***Term of Commitment:*** All loans from the WIF must be closed in their entirety within one year from the date of the commitment.
- ***Length of Loans:*** 20 years. Bonds may not be prepaid (called) for approximately 10 years (10 year call provisions).
- ***Interest Rates:*** The interest rate is set in accordance with the TWDB rules in 31 TAC 363.1205. The Board will set a lending rate scale based on its cost of funds and then reduce that rate by 200 basis points for the applicant.

Where Can I Get More Information?
For additional information please contact the Texas Water Development Board, Project Finance and Construction Assistance: (512) 463-8491

Appendix H

Recommendations provided in TWDB Report "Funding Analysis of the State Role in Financing Texas' Water Needs" and submitted to the Select Committee on Water Policy, September 8, 2004, Brownsville, Texas

RECOMMENDATIONS

In order to provide for Texas' water supply and water and wastewater infrastructure needs that cannot be met by local, regional or federal entities, TWDB makes the following recommendations:

- State assistance should focus on financing gaps associated with implementation and funding for:
  - regional water supply projects; +
  - disadvantages communities; and
  - agricultural and municipal water conservation.

- State general revenues or dedicated revenues should be made available to allow existing state assistance programs to offer:
  - grants for research into water conservation techniques and innovative technologies (such as desalination);
  - grants for agricultural water conservation equipment, which will leverage matching federal funds
  - payment deferrals for planning, design, and environmental and other permitting activities;
  - grants, zero-interest loans and below-market loans to disadvantaged communities; and
  - state participation projects.

- Conduct a cost/benefit analysis of using various revenue sources to fund programs that target state assistance to water supply strategies and to disadvantaged communities, as described in this report.

- Provide additional general obligation bond authority for TWDB.

- Statutory authority should be provided to allow TWDB the flexibility to offer grants for water and wastewater projects using state general obligation bond proceeds.

- Remove the statutory prohibitions (Water Code Section 15.974) that limit the WIF to no more than 10 percent in each of the following areas:
  - grants and low or zero-interest loans; and
  - loans at or below-market interest rates for planning, design and permitting costs, including a 10-year deferral on principal and interest.

- Funding should be provided for adequate staffing for expanded financial assistance programs, including outreach assistance and development of training programs in financial and technical management.

Appendix I

(b) A person is not required to obtain a license under Section 16.451, Water Code, as added by this article, until March 1, 2006.

(c) Section 16.454, Water Code, as added by this article, applies only to a sale, lease, or agreement entered into on or after March 1, 2006.

SECTION 2.56. (a) The executive administrator of the Texas Water Development Board shall appoint the initial appointed representatives for each groundwater management area council as provided by Section 36.108, Water Code, as amended by this article, as soon as practicable on or after the effective date of this Act. The terms of the initial representatives for each groundwater management area council expire August 31, 2007.

(b) The Texas Water Development Board shall convene the groundwater management area councils required under Section 36.108, Water Code, as amended by this article, not later than September 1, 2006.

(c) The Texas Commission on Environmental Quality and the Texas Water Development Board shall adopt any rules, models, and forms necessary for the implementation of the groundwater management area planning functions required by this article not later than September 1, 2006.

SECTION 2.57. Chapter 153, Water Code, as added by this article, takes effect September 1, 2007.

ARTICLE 3. FINANCING OF WATER PROJECTS

SECTION 3.01. Chapter 13, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. WATER CONSERVATION AND DEVELOPMENT FEE

Sec. 13.551. WATER CONSERVATION AND DEVELOPMENT FEE. Each ret public utility sha l collect from each ultimate consumer to who he utility provides retail water utility service a water con vation and development fee as provided by this subchapter.

Sec. 13.552. RATE OF FEE. The rate of the fee imposed under thi ubchapter is 13 cents for each 1,000 gallons of water sold to the timate consumer for consumption each month.

Sec. 13.553. EXEMPTIONS. (a) The first 5,000 gallons of wat sold to the ultimate consumer for consumption each month is exe from the application of the fee if the consumer is a resident of single-family dwelling or a dwelling unit of a multifamily dwe ng.

(b) The exemption provided by Subsection (a) applies wit t regard to:

(1) whether the retail water utility service is bun d with another service; or

(2) the billing period used by the retail public uti ty.

(c) An entity described by Section 151.309 or 151.310, Tax Cod is exempt from the fee imposed by this subchapter.

Sec. 13.554. PAYMENT OF FEE. (a) On or before the 20th day of e month following the end of each calendar month, each retail wat utility that sold water to an ultimate consumer for cor mption shall send to the comptroller the amount of the fee the uti ty collected under this subchapter for the preceding calendar mon .

(b) A retail public utility that makes timely payment of the fee imposed under this subchapter is entitled to retain an amount equal to one-half of one percent of the amount of the fee collected as reimbursement for the costs of collecting the fee for that month.

Sec. 13.555. REPORTS. On or before the 20th day of the month following the end of each calendar month, each retail public utility that sold water to an ultimate consumer for consumption shall file with the comptroller a report stating:

(1) the number of gallons of water sold to ultimate consumers during the preceding calendar month;

(2) the number of gallons of water sold to ultimate consumers during the preceding calendar month on which the fee was imposed; and

(3) any other information required by the comptroller.

Sec. 13.556. RECORDS. A retail public utility that sells water to the ultimate consumer for consumption shall keep a complete record of:

(1) the number of gallons of water sold to ultimate consumers during the preceding calendar month;

(2) the number of gallons of water sold to ultimate consumers during the preceding calendar month on which the fee was imposed; and

(3) any other information required by the comptroller.

Sec. 13.557. ALLOCATION OF REVENUE. The revenue from the fee imposed by this subchapter shall be deposited to the credit of the water infrastructure fund and may be used only as provided by Subchapter Q, Chapter 15.

SECTION 3.02. Section 15.407(a), Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.941 [~~16.341 of this code~~].

SECTION 3.03. Section 15.973, Water Code, is amended to read as follows:

Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water infrastructure fund is a special fund outside [~~in~~] the state treasury to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to pay for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053.

(b) The fund consists of:

(1) appropriations from the legislature;

(2) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;

(3) repayments of loans made from the fund;

(4) interest earned on money credited to the fund;

(5) depository interest allocable to the fund;

(6) money from gifts, grants, or donations to the fund;

(7) money from revenue bonds or other sources designated by the board; [~~and~~]

(8) proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to

the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund;

(9) the proceeds from the collection of the fee imposed under Subchapter O, Chapter 13; and

(10) fees and penalties collected under Subchapter L, Chapter 16.

SECTION 3.04. Section 15.974(a), Water Code, is amended to read as follows:

(a) The board may use the fund:

(1) to make loans to political subdivisions at or below market interest rates for projects;

(2) to make grants, low-interest loans, or zero interest loans to political subdivisions for projects to serve areas outside metropolitan statistical areas in order to ensure that the projects are implemented, for conjunctive use projects, or for projects to serve economically distressed areas;

(3) to make loans at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a project;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the board if the proceeds of the sale of the bonds will be deposited in the fund; [~~and~~]

(5) to pay the necessary and reasonable expenses of the board in administering the fund; and

(6) to make transfers:

(A) to the state participation account and the economically distressed areas program account of the Texas Water Development Fund II authorized by Section 49-d-8, Article III, Texas Constitution, and Subchapter L, Chapter 17, of this code, to be used for the purposes authorized by those provisions;

(B) to the agricultural water conservation fund authorized by Section 50-d, Article III, Texas Constitution, and Subchapter J, Chapter 17, of this code, to be used for the purposes authorized by those provisions;

(C) to the water assistance fund authorized by Subchapter B; and

(D) from revenues collected under Subchapter O, Chapter 13, during a fiscal biennium to the general revenue fund in amounts not to exceed appropriations of general revenue for operations of the board and for operations of the commission related to the administration of programs relating to water resources and water quality.

SECTION 3.05. Section 17.172, Water Code, is amended to read as follows:

Sec. 17.172. APPLICABILITY. This subchapter applies to financial assistance made available from the water supply account, the water quality enhancement account, the flood control account, [~~and~~] the economically distressed areas account, and the economically distressed areas program account under Subchapters D, F, G, [~~and~~] K, and K-1 of this chapter.

SECTION 3.06. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(4) "Sewer services" and "sewer facilities" mean treatment works or individual, on-site, or cluster treatment systems such as septic tanks and include drainage facilities and other improvements for proper functioning of the sewer services and other facilities.

Sec. 17.942. FINANCIAL ASSISTANCE. The economically distressed areas program account may be used by the board to provide

financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions. Money from the proceeds of bonds issued under the authority of Sections 49-d-7(b) or 49-d-8, Article III, Texas Constitution, may not be used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A political subdivision may apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision operates and was created;

(3) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project and include with the description a statement prepared and certified by an engineer registered to practice in this state that the facilities do not meet minimum state standards;

(4) information identifying the median household income for the area to be served by the proposed project;

(5) a project plan prepared and certified by an engineer registered to practice in this state that:

(A) describes the proposed planning, design, and construction activities necessary for providing water supply and sewer services that meet minimum state standards; and

(B) identifies the households to whom the services will be provided;

(6) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines; and

(7) the total amount of assistance requested from the economically distressed areas program account.

(c) A program of water conservation for the more effective use of water is required for approval of an application for financial assistance under this section in the same manner as such a program is required for approval of an application for financial assistance under Section 17.125.

(d) Before considering the application, the board may require the applicant to:

(1) participate with the board in reviewing the applicant's managerial, financial, or technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission of the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial

management review of the applicant's current operations and, if the comptroller is available to perform the review, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.

Sec. 17.944. CONSIDERATIONS IN PASSING ON APPLICATION. (a) In passing on an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply or sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) the availability of revenue or alternative financial assistance for the area served by the project, from all sources, for the payment of the cost of the proposed project;

(3) the financing of the proposed water supply or sewer project, including consideration of:

(A) the budget and repayment schedule submitted under Section 17.943(b)(6);

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board; and

(4) the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the project by using money

from the economically distressed areas program account or any other available financial assistance.

(b) At the time an application for financial assistance is considered, the board also must find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After considering the matters described by Section 17.944, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board may not release money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water that the water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply project will provide.

(b) The board may release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for treatment works, the board may not deliver money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission or unless such a permit is not required by the commission.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The board may provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas

program account to purchase political subdivision bonds.

(b) The board may make financial assistance available to political subdivisions in any other manner that it considers feasible, including:

(1) contracts or agreements with a political subdivision for acceptance of financial assistance that establish any repayment based on the political subdivision's ability to repay the assistance and that establish requirements for acceptance of the assistance; or

(2) contracts or agreements for providing financial assistance in any federal or federally assisted project or program.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board may use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by board rules and in the agreement between the board and the political subdivision, taking into consideration the information provided by Section 17.943.

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide

to the Department of State Health Services information necessary to make a determination, and the board and the Department of State Health Services may enter into memoranda of understanding necessary to carry out this subsection.

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.

(d) In determining the amount and form of financial assistance and the amount and form of repayment, if any, the board shall consider:

(1) rates, fees, and charges that the average customer to be served by the project will be able to pay based on a comparison of what other families of similar income who are similarly situated pay for comparable services;

(2) sources of funding available to the political subdivision from federal and private money and from other state money;

(3) any local money of the political subdivision to be served by the project if the economically distressed area to be served by the board's financial assistance is within the boundary of the political subdivision; and

(4) the just, fair, and reasonable charges for water and wastewater service as provided by this code.

(e) In making its determination under Subsection (d)(1),

the board may consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) The board may provide financial assistance money under this subchapter for treatment works only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

SECTION 3.07. Section 17.958(c), Water Code, is amended to read as follows:

(c) Money on deposit in the economically distressed areas program account may be used by the board for purposes provided by Subchapter K or K-1 in the manner that the board determines necessary for the administration of the fund.

SECTION 3.08. Sections 15.407(i) and 15.974(b), Water Code, are repealed.

ARTICLE 4. SPECIAL DISTRICT CREATION

SECTION 4.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8805 to read as follows:

CHAPTER 8805. HOUSTON COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8805.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Houston County Groundwater Conservation District.

Sec. 8805.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Houston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8805.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2007:

(1) the district is dissolved on September 1, 2007, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Houston County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2010.

Sec. 8805.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Houston County, Texas.

Sec. 8805.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8805.006-8805.020 reserved for expansion]

SECTION 2.55. (a) Requires TWDB, not later than December 1, 2005, to adopt rules under Subchapter L, Chapter 16, Water Code, as added by this article and the executive administrator of TWDB to be prepared to accept applications submitted under Section 16.452, Water Code, as added by this article.

(b) Provides that a person is not required to obtain a license under Section 16.451, Water Code, as added by this article, until March 1, 2006.

(c) Provides that Section 16.454, Water Code, as added by this article, applies only to a sale, lease, or agreement entered into on or after March 1, 2006.

SECTION 2.56. (a) Requires the executive administrator of TWDB to appoint the initial appointed representatives for each groundwater management area council as provided by Section 36.108, Water Code, as amended by this article, as soon as practicable on or after the effective date of this Act. Provides that the terms of the initial representatives for each groundwater management area council expire August 31, 2007.

(b) Requires TWDB to convene the groundwater management area councils required under Section 36.108, Water Code, as amended by this article, not later than September 1, 2006.

(c) Requires TCEQ and TWDB to adopt any rules, models, and forms necessary for the implementation of the groundwater management area planning functions required by this article not later than September 1, 2006.

SECTION 2.57. Provides that Chapter 153, Water Code, as added by this Act, takes effect September 1, 2007.

ARTICLE 3. FINANCING OF WATER PROJECTS.

SECTION 3.01. Amends Chapter 13, Water Code, by adding Subchapter O, as follows:

SUBCHAPTER O. WATER CONSERVATION AND DEVELOPMENT FEE

Sec. 13.551. WATER CONSERVATION AND DEVELOPMENT FEE. Requires each retail public utility to collect from each ultimate consumer to whom the utility provides retail water utility service a water conservation and development fee as provided by this subchapter.

Sec. 13.552. RATE OF FEE. Provides that the rate of the fee imposed under this subchapter is 13 cents for each 1,000 gallons of water sold to the ultimate consumer for consumption each month.

Sec. 13.553. EXEMPTIONS. (a) Provides that the first 5,000 gallons of water sold to the ultimate consumer for consumption each month is exempt from the application of the fee if the consumer is a resident of a single-family dwelling or a dwelling unit of a multifamily dwelling.

(b) Provides that the exemption provided by Subsection (a) applies without regard to whether the retail water utility service is bundled with another service or the billing period used by the retail public utility.

(c) Provides that an entity described by Section 151.309 (Governmental Entities) or 151.310 (Religious, Educational, or Public Service Organizations), Tax Code, is exempt from the fee imposed by this subchapter.

Sec. 13.554. PAYMENT OF FEE. (a) Requires each retail water utility that sold water to an ultimate consumer for consumption, on or before the 20th day of the month following the end of each calendar month, to send to the comptroller the amount of the fee the utility collected under this subchapter for the preceding calendar month.

(b) Provides that a retail public utility that makes timely payment of the fee imposed under this subchapter is entitled to retain an amount equal to one-half of one percent of the amount of the fee collected as reimbursement for the costs of collecting the fee for that month.

Sec. 13.555. REPORTS. Requires each retail public utility that sold water to an ultimate consumer for consumption, on or before the 20th day of the month following the end of each calendar month, to file with the comptroller a report stating specific information regarding the number of gallons sold.

Sec. 13.556. RECORDS. Requires a retail public utility that sells water to the ultimate consumer for consumption to keep a complete record of specific information regarding the number of gallons sold.

Sec. 13.557. ALLOCATION OF REVENUE. Requires the revenue from the fee imposed by this subchapter to be deposited to the credit of the water infrastructure fund and may be used only as provided by Subchapter Q, Chapter 15.

SECTION 3.02. Amends Section 15.407(a), Water Code, to provide that, in this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.941, rather than Section 16.341.

SECTION 3.03. Amends Section 15.973, Water Code, as follows:

Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) Provides that the water infrastructure fund is a special fund outside, rather than in, the state treasury to be administered by TWDB under this subchapter and rules adopted by TWDB under this subchapter.

(b) Provides that the fund consists of specific items, including the proceeds from the collection of the fee imposed under Subchapter O, Chapter 13, and fees and penalties collected under Subchapter L, Chapter 16.

SECTION 3.04. Amends Section 15.974(a), Water Code, to authorize TWDB to use the fund to make grants, low-interest loans, or zero interest loans for conjunctive use projects and to make specific transfers.

SECTION 3.05. Amends Section 17.172, Water Code, as follows:

Sec. 17.172. APPLICABILITY. Sets forth the accounts for which financial assistance is made available, including the economically distressed areas program account under specific Subchapters, including Subchapter K-1.

SECTION 3.06. Amends Chapter 17, Water Code, by adding Subchapter K-1, as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. Defines "economically distressed area," "financial assistance," "political subdivision," "sewer services," and "sewer facilities."

Sec. 17.942. FINANCIAL ASSISTANCE. Authorizes the economically distressed areas program account to be used by TWDB to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions.

Prohibits money from the proceeds of bonds issued under the authority of Sections 49-d-7(b) or 49-d-8, Article III, Texas Constitution, from being used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) Authorizes a political subdivision to apply to TWDB for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) Requires the application and plan to include specific information regarding the political subdivision.

(c) Provides that a program of water conservation for the more effective use of water is required for approval of an application for financial assistance under this section in the same manner as such a program is required for approval of an application for financial assistance under Section 17.125.

(d) Authorizes TWDB, before considering the application, to require the applicant to participate in the review, provide a written determination by TCEQ stating specific information, request a financial management review from the comptroller, and any other information required by TWDB or the executive administrator of TWDB.

Sec. 17.944. CONSIDERATIONS IN PASSING ON APPLICATION. (a) Requires TWDB, in passing on an application for financial assistance, to consider specific needs, availability of revenue or alternative financial assistance, financing details, and the feasibility of achieving cost savings.

(b) Requires TWDB, at the time an application for financial assistance is considered, to also find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. Requires TWDB, after considering the matters described by Section 17.944, by resolution, to approve the plan and application as submitted, approve the plan and application subject to the requirements identified by TWDB or TCEQ for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, TWDB considers appropriate, deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance, if TWDB finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project, or deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) Prohibits TWDB from releasing money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator of TWDB makes a specific written finding regarding the applicant's water rights.

(b) Authorizes TWDB to release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a), if the executive administrator of TWDB determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) Prohibits TWDB, if an applicant includes a proposal for treatment works, from delivering money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from TCEQ or unless such a permit is not required by the TCEQ.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) Authorizes TWDB to provide financial assistance to political subdivisions under this subchapter by using

money in the economically distressed areas program account to purchase political subdivision bonds.

(b) Authorizes TWDB to make financial assistance available to political subdivisions in any other manner that t considers feasible, including specific contracts or agreements.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) Authorizes TWDB to use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by TWDB rules and in the agreement between TWDB and the political subdivision, taking into consideration the information provided by Section 17.943.

(b) Prohibits TWDB, in providing financial assistance to an applicant under this subchapter, from providing to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services (DSHS) issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. Requires TWDB and the applicant to provide to DSHS information necessary to make a determination, and authorizes TWDB and DSHS to enter into memoranda of understanding necessary to carry out this subsection.

(c) Prohibits the total amount of financial assistance provided by TWDB to political subdivisions under this subchapter from state-issued bonds for which repayment is not required from exceeding at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.

(d) Requires TWDB, in determining the amount and form of financial assistance and the amount and form of repayment, if any, to consider specific rates, fees, charges, sources of funding available, any local money of the political subdivision, and reasonable charges for water and wastewater service.

(e) Authorizes TWDB, in making its determination under Subsection (d)(1), to consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) Authorizes TWDB to provide financial assistance money under this subchapter for treatment works only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

SECTION 3.07. Amends Section 17.958(c), Water Code, to make a conforming change.

SECTION 3.08. Repealer: Section 15.407(i) (relating to a change in the status of a county's per capita income or a decrease in unemployment rate average) and Section 15.974(b) (relating to prohibition of funding under Subsection (a)(2)), Water Code.

ARTICLE 4. SPECIAL DISTRICT CREATION.

SECTION 4.01. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8805, as follows:

CHAPTER 8805. HOUSTON COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Appendix J

Water Infrastructure Financing Survey for Projects Recommended in the 2007 State Water Plan

Organization name:
Address:
Contact person(s):
Phone:
Email:
TWDB Database identification Code:

Background and Purpose of the Survey

The 80th Texas Legislature established the Joint Committee on State Water Funding which will be in deliberations through the summer of 2008. The Committee is charged with a review of current financing mechanisms for water supply infrastructure in Texas, specifically projects recommended in the 2006 regional water plans and the 2007 State Water Plan. As part of this charge, the Committee has requested that the Texas Water Development Board (TWDB) evaluate the amount of funding needed from state financial assistance programs to support local and regional water providers in Texas in implementing these projects. The purpose of this survey is to: 1) determine if your organization plans to apply for financial assistance from the TWDB to implement state water plan projects, and 2) assess which programs might apply to your facility.

The TWDB has funding programs for water projects identified in the 2007 state water plan. Funds are targeted toward: 1) construction of water supply projects, 2) planning and design and permitting for projects that have long development time frames meaning that construction would require 5-10 years of planning, design and permitting, and 3) projects that would be built with excess capacity intended to meet future water needs. These programs offer various attractive financing options such as subsidized interest rates, deferral of principal and interest during planning, design and permitting phase, partial deferral of interest and principal for those portions of the project which are optimally sized for future needs. Additionally, grant funding is available for those service areas which qualify as rural or economically disadvantaged. More information on these financial assistance programs (i.e., the Water Infrastructure Fund, the State Participation Fund, and the Economically Disadvantaged Areas Program) can be found at the TWDB website at:
http://www.twdb.state.tx.us/assistance/financial/financial_main.asp.

Your cooperation and responses to these questions are crucial in helping the state in ensuring that our communities and our citizens have adequate water supplies. If you have questions regarding the survey, please contact Mr. Jeff Walker at (512) 463-7779.

Section 1: General Information (provided by the TWDB)

According to the State Water Plan, the following projects were recommended for your organization:

- Recommended project (s):
- Implementation date (s):
- Capital cost to be paid by political subdivision:

Section 2: Project Financing Information

Available Funding: For project(s) identified in the State Water Plan, the TWDB has funding available for different aspects of a project. The different programs available are:

WIF-Deferred offers subsidized interest and deferral of principal and interest for up to 10 years for planning, design and permitting costs.

WIF-Construction offers subsidized interest for all construction costs, including planning, acquisition, design, and construction.

Economically Distressed Areas Program (EDAP) offers funding through grants and subsidized loans for service areas within a project which meet the EDAP eligibility criteria. Eligibility for the TWDB's EDAP requires that the median household income of your service area be less than 75 percent of the Texas median household income ($39,927), as shown in the 2000 Census. EDAP eligibility also requires adoption of Model Subdivision rules by the appropriate planning entities.

Rural areas funding offers grants and subsidized loans for service areas which are not in a Metropolitan Statistical Area (MSA) and in which the population does not exceed 5,000. The service area must also meet the EDAP eligibility criteria.

State Participation funding offers partial interest and principal deferral for the incremental cost of project elements which are designed and built to serve needs beyond 10 years.

If you are interested in receiving funds from the above programs, please complete the remainder of the survey.

Question 1: Does your project include distinct service areas which meet EDAP eligibility criteria?

Yes _____ No_____

If Yes, please include the economically distressed areas portion of the project costs in the table below.

Question 2: Do you need funding for the planning, design and permitting costs prior to seeking funding for construction costs? In other words, will planning and permitting require several years before final design and construction can begin?

Yes _____ No_____

If Yes, please include the portion of the project costs related to planning, design and permitting in the table below.

Question 3: Is there excess capacity in the recommended project; in other words, are there project elements that could be intentionally oversized in the initial construction to accommodate future growth to serve needs beyond 10 years?

Yes _____ No_____

If Yes, please include the portion of the incremental costs of the project which are to be built related to the construction in the table below.

Question 4: Does your project include distinct service areas which meet the criteria for Rural areas funding?

Yes _____ No_____

If Yes, please include the Rural areas portion of the project costs in the table below.

PROJECT COST TABLE

Project Element	Costs $	Year Funding Needed
Planning, design, permitting		
Acquisition and construction		
Excess capacity		
Disadvantaged		
Rural		
TOTAL PROJECT COSTS		

Please include any comments or questions you might have so that someone can contact you for further information of education. Include the Name, and contact information of the individual who completed the survey.

COMMENTS OR QUESTIONS

Name:

Phone #:

e-mail address:

Comments:

Appendix K

2007 State Water Plan
Infrastructure Financing Survey Summary

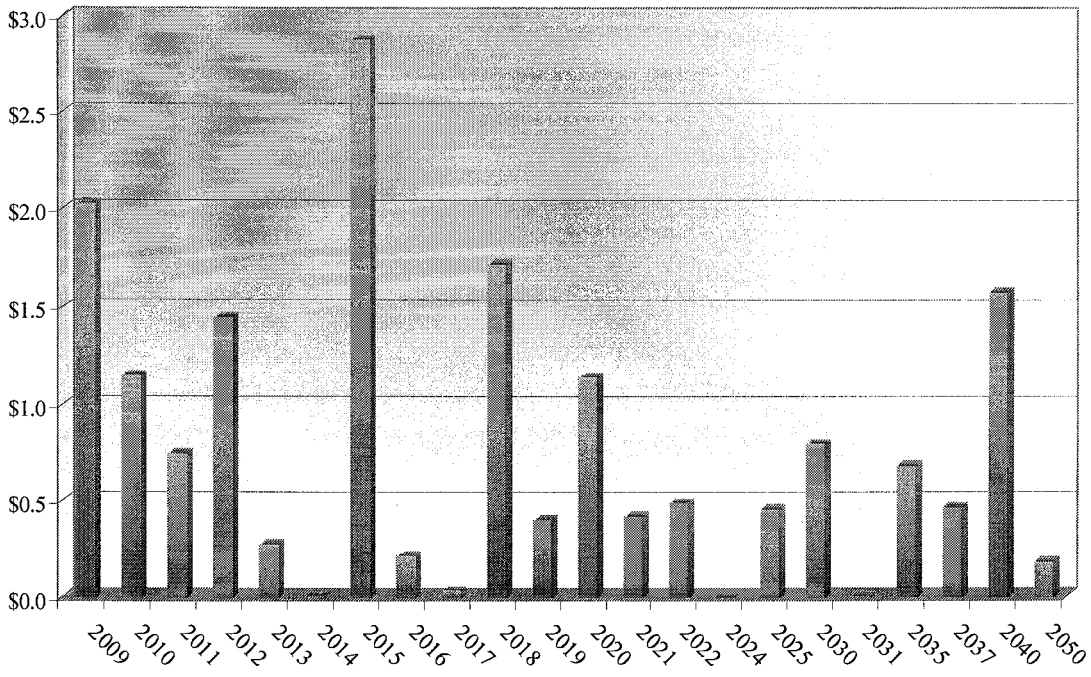
The Joint Committee on State Water Funding requested that the Texas Water Development Board (TWDB) reevaluate the amount of funding needed from state financial assistance programs to support local and regional water providers in implementing water management strategies recommended in the 2007 State Water Plan. In response, the TWDB solicited survey information from 570 local and regional water providers including municipalities to determine if they plan to apply for financial assistance from the TWDB to help implement state water plan projects.

- Of the 570 entities surveyed, 212 responded (37 percent) and reported an anticipated need of $17.1 billion in funds from TWDB financial assistance programs; this amount represents roughly 60 percent of total capital costs for water supply management strategies recommended for municipal water user groups in the 2007 State Water Plan (See Attachment A).

- Of the reported needs for state financial assistance to implement state water plan management strategies, nearly $14.2 billion occur between the years 2010 and 2020, $1.7 billion occur between 2020 and 2030, and $1.2 billion between 2030 to 2040 (Figure 1).

- Survey respondents stated that nearly $14.8 billion (87 percent) of requested funds would target site acquisition and construction activities and $2.0 billion (12 percent) would finance project permitting, planning, and design activities. Of the $17.1 billion total, survey respondents identified approximately $0.3 billion for projects in rural and economically distressed areas of the state.

Figure 1: Reported Needs for State Financial Assistance to Implement Water Management Strategies Recommended in the 2007 State Water Plan ($billions)



Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
Brackish Groundwater Desalination	Brackish Desalination	San Antonio Water System	$299.23	2009-2011
Brackish Water Desalination	Brackish Desalination	Brownsville	$258.61	2016-2040
		Laguna Madre Water District	$16.00	2020-2022
		Laredo	$21.54	2009-2011
		Mercedes	$0.14	2010
		Mission	$1.42	2009-2011
		Primera	$0.05	2010
		San Perlita	$0.08	2010
		Southmost Regional Water Authority	$18.08	2017-2025
Groundwater Desalination and Imports	Brackish Desalination	El Paso	$308.00	2020-2030
Freeport Desalination Plant	Seawater Desalination	Brazos River Authority	$406.07	2030-2050
Seawater Desalination	Seawater Desalination	Brownsville	$7.38	2009-2025
		Laguna Madre Water District	$1.84	2009-2010
Nueces Feasibility Project(s)	Seawater Desalination	Corpus Christi	$87.12	2015-2025
Advanced Water Conservation	Conservation	Brownsville	$0.29	2015-2016
		Hidalgo	$0.08	2010-2012
		Laguna Madre Water District	$0.06	2009
		Laredo	$1.27	2009
		Mercedes	$0.02	2010
		Military Highway Water Supply Corporation	$0.05	2010
		Mission	$0.34	2009-2010
		Pharr	$0.28	2010
		Primera	$0.01	2010
		San Juan	$0.28	2010-2018
		San Perlita	$0.00	2010
		Sebastian Municipal Water District	$0.01	2010
		Webb County Water Utility	$0.01	2010
Municipal Conservation-Expanded	Conservation	Benbrook	$0.01	2010
		Lakeside	$0.02	2009-2010
		North Richland Hills	$0.05	2010
		Tioga	$0.01	2010
Angelina County Regional Project	Existing Ground or Surface Water	Lufkin	$75.00	2015
Canyon Reservoir (Downstream Diversions)	Existing Ground or Surface Water	New Braunfels	$21.00	2010-2012
Collin-Grayson Municipal Alliance System	Existing Ground or Surface Water	Greater Texoma Utility Authority	$36.13	2014-2018
Conveyance Project	Existing Ground or Surface Water	Alvord	$1.10	2012

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
		Fort Worth	$17.03	2019-2020
		Walnut Creek Special Utility District	$20.19	2009-2010
		Wortham	$3.50	2015-2018
Grayson County Project	Existing Ground or Surface Water	Greater Texoma Utility Authority	$198.14	2010-2020
Lake Granger Augmentation	Existing Ground or Surface Water	Brazos River Authority	$303.29	2040
Conjunctive Use with Additional Surface Water	Existing Ground or Surface Water	El Paso	$40.00	2010
Import From Diablo Farms	Existing Ground or Surface Water	El Paso	$9.80	2030-2040
Lake Alan Henry Pipeline for Lubbock	Existing Ground or Surface Water	Lubbock	$40.00	2021-2031
Lake Fork Connection	Existing Ground or Surface Water	Dallas	$198.43	2009-2016
Lake Palestine Connection	Existing Ground or Surface Water	Dallas	$414.45	2009-2010
LGSWP for GBRA Needs	Existing Ground or Surface Water	Guadalupe Blanco River Authority	$460.00	2015-2019
Midway Pipeline Project	Existing Ground or Surface Water	Stephens County Water Supply Corporation	$5.11	2010
		Throckmorton	$2.47	2015
Water to Williamson County from Lake Travis	Existing Ground or Surface Water	Round Rock	$130.00	2009
Toledo Bend Project	Existing Ground or Surface Water	North Texas Municipal Water District	$1.00	2030
		Tarrant Regional Water District	$636.00	2025-2030
Nueces Project Pipeline	Existing Ground or Surface Water	Corpus Christi	$36.90	2030-2040
Water Supply from Canyon Reservoir	Existing Ground or Surface Water	Guadalupe Blanco River Authority	$33.00	2011-2015
Facility Improvements	Expand Water Treatment Facilities	North Texas Municipal Water District	$795.67	2010-2040
Increased Water Treatment and ASR Capacity	Expand Water Treatment Facilities	Kerrville	$1.75	2009
Water Treatment Plant	Expand Water Treatment Facilities	Dallas	$382.44	2009
		Fort Worth	$124.68	2040
		Lewisville	$6.00	2015
		Mac Bee Water Supply Corporation	$3.50	2010
		Runaway Bay	$1.85	2009
		Walnut Creek Special Utility District	$20.19	2010
		Wortham	$1.25	2011-2018
Water Treatment Plant Expansion	Expand Water Treatment Facilities	Fort Worth	$231.10	2040
Water Treatment Plant Expansion	Expand Water Treatment Facilities	Arlington	$3.85	2030-2040
Water Treatment Plant Expansion	Expand Water Treatment Facilities	Lufkin	$30.00	2035
Carrizo Aquifer Development	Groundwater Development	Bryan	$2.38	2009-2010
		Wickson Creek Special Utility District	$5.00	2020
Additional Well	Groundwater Development	Tornillo WCID	$1.00	2009-2010
Champion Well Field (Phases 1 & 2)	Groundwater Development	Sweetwater	$10.98	2018-2020
CRMWA Expand Groundwater Supply	Groundwater Development	Canadian River Municipal Water Authority	$4.84	2009-2018

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
Develop Hickory Aquifer Supplies	Groundwater Development	Menard	$1.28	2009-2010
		San Angelo	$50.00	2025
Additional Groundwater Well	Groundwater Development	Amarillo	$28.68	2009
Drill New Well	Groundwater Development	Crystal Systems Inc.	$0.90	2010
		Grand Saline	$0.57	2010
		Lindale Rural Water Supply Corporation	$0.32	2009
Expand Existing Groundwater Wells	Groundwater Development	Brownsville	$0.71	2017-2018
		Hidalgo	$0.72	2009-2011
		Laredo	$24.73	2009-2011
		Mercedes	$0.10	2010
		Military Highway Water Supply Corporation	$1.14	2010
		Pharr	$2.50	2010
		Webb County Water Utility	$0.01	2010
Expand Roberts County Well Field - Amarillo	Groundwater Development	Amarillo	$164.36	2035-2040
Expansion of Trinity Aquifer	Groundwater Development	Goldthwaite	$5.77	2010
Groundwater (Carrizo-Wilcox Aquifer)	Groundwater Development	Benton City Water Supply Corporation	$3.50	2010
		Bexar Metropolitan Water District	$2.68	2010
		Polonia Water Supply Corporation	$4.39	2009
		SS Water Supply Corporation	$2.25	2013-2015
Local Groundwater (Gulf Coast Aquifer)	Groundwater Development	Kenedy	$4.82	2009-2010
Local Groundwater (Trinity Aquifer)	Groundwater Development	Bexar Metropolitan Water District	$20.30	2009-2010
		County Line Water Supply Corporation	$2.69	2040
Local Groundwater Development	Groundwater Development	Denver City	$3.76	2010
		Lorenzo	$0.28	2011
		Petersburg	$0.26	2009-2010
		Ropesville	$0.28	2010
		Shallowater	$0.37	2009-2015
		Silverton	$1.03	2010-2012
		Sudan	$0.47	2009
		Sundown	$0.75	2009
		White River Municipal Water District	$0.81	2009-2010
		Wilson	$0.28	2010-2013
		Wolfforth	$3.90	2009-2011
New Groundwater Wells	Groundwater Development	Liberty	$0.39	2010-2015
		Madisonville	$0.42	2010-2015

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
		Pleak	$1.55	2010-2015
		Sealy	$1.36	2010-2015
		Waller	$1.40	2010-2015
Carrizo Wilcox Aquifer	Groundwater Development	Community Water Company	$0.73	2010-2020
		Lindale Rural Water Supply Corporation	$0.26	2009-2020
Gulf Coast Aquifer	Groundwater Development	Mauriceville Special Utility District	$0.28	2010-2012
Woodbine Aquifer	Groundwater Development	Whitewright	$1.03	2010-2011
Trinity Aquifer	Groundwater Development	Alvord	$0.26	2015
		Gunter Rural Water Supply Corporation	$0.55	2009-2010
		Tioga	$0.37	2009-2010
Carrizo Groundwater for Bexar County	Groundwater Development	San Antonio Water System	$502.15	2009-2015
Supplemental Wells	Groundwater Development	Alvord	$0.65	2009
		Aubrey	$1.37	2009-2010
		Aurora	$0.52	2009-2010
		Benbrook	$3.73	2012-2015
		Gunter Rural Water Supply Corporation	$3.29	2012-2013
		Johnson County Rural Special Utility District	$7.20	2010
		Kiowa Homeowners Water Supply Corporation	$1.40	2009-2010
		Lakeside	$1.52	2009-2010
		Malakoff	$1.15	2010
		North Richland Hills	$0.38	2010-2011
		Northlake	$0.38	2010
		Ponder	$1.45	2010-2011
		Tioga	$1.40	2010-2020
		Whitewright	$1.65	2019-2020
		Woodbine Water Supply Corporation	$2.94	2010
Acquisition of Water Rights through Contract	New Water Rights or Contracts	Brownsville	0.03	2010
		Hidalgo	$0.04	2009-2010
		Laguna Madre Water District	$0.04	2010
		Laredo	$1.29	2009
		Military Highway Water Supply Corporation	$0.12	2010
		Primera	$0.02	2010
		San Juan	$0.53	2010-2018
		Sebastian Municipal Utility District	$0.01	2010
		Webb County Water Utility	$0.04	2010

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
Acquisition of Water Rights through Contract	New Water Rights or Contracts	Brownsville	$0.49	2009
		Hidalgo	$0.91	2009-2010
		Laguna Madre Water District	$4.45	2009-2010
		Laredo	$63.10	2009
		Military Highway Water Supply Corporation	$1.79	2010
		Pharr	$5.00	2015
		Primera	$0.49	2010
		Rio Grande City	$0.09	2009
		San Juan	$11.92	2010-2018
		Sebastian Municipal Utility District	$0.14	2010
		Webb County Water Utility	$0.97	2015
Acquisition of Water Rights through Contract	New Water Rights or Contracts	Mission	$12.17	2009-2010
Increase Existing Contracts	New Water Rights or Contracts	Harris County WCID #36	$0.33	2010
Lake Texoma Interim Purchase From GTUA	New Water Rights or Contracts	Greater Texoma Utility Authority	$1.52	2009
New Contracts From Existing Sources	New Water Rights or Contracts	Arcola	$0.50	2009
		Willis	$3.91	2009
TRA to Houston Contract	New Water Rights or Contracts	Harris County Municipal Utility District #11	$0.53	2012-2020
		Harris County WCID #36	$1.20	2012-2020
		North Harris County Regional Water Authority	$587.50	2012-2020
		Tomball	$1.20	2012-2020
Bottled Water Program	Other (Existing Sources)	Eden	$0.11	2009
BRA System Operations Permit	Other (Existing Sources)	Rosenberg	$1.00	2011-2013
Brazos Saltwater Barrier	Other (Existing Sources)	Brazos River Authority	$35.30	2012
Replacement Well	Other (Existing Sources)	Eden	$1.37	2010-2020
Subordination	Other (Existing Sources)	Coleman	$1.98	2010-2012
		Upper Colorado River Authority	$0.70	2010-2020
Fannin County Project	Other (New Water)	North Texas Municipal Water District	$39.46	2013-2015
LCRA/SAWS Water Project	Other (New Water)	San Antonio Water System	$2,682.50	2010-2015
Millers Creek Augmentation	Other (New Water)	North Central Texas Municipal Water Authority	$18.22	2015-2017
Oklahoma Water to NTMWD, TRWD, UTRWD	Other (New Water)	North Texas Municipal Water District	$1.00	2025
		Tarrant Regional Water District	$287.00	2012-2010
		Upper Trinity Regional Water District	$60.97	2012-2018
Wright Patman Reallocation	Other (New Water)	Dallas	$572.04	2009-2022
Garwood Off-Channel Reservoir	Reservoir (Other)	Corpus Christi	$81.12	2011-2025
Allen's Creek Reservoir	Reservoir (Unique)	Brazos River Authority	$51.01	2009-2018

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
Brownsville Weir & Reservoir	Reservoir (Unique)	Brownsville	$74.66	2009-2020
Cedar Ridge Reservoir	Reservoir (Unique)	Abilene	$40.20	2009-2017
Goldthwaite Channel Dam	Reservoir (Unique)	Goldthwaite	$2.50	2010
Lake Fastrill	Reservoir (Unique)	Dallas	$569.17	2021-2037
Lake Ralph Hall	Reservoir (Unique)	Upper Trinity Regional Water District	$211.15	2009-2013
Little River off-Channel Reservoir	Reservoir (Unique)	Brazos River Authority	$153.88	2040-2050
Lower Bois D' Arc Creek	Reservoir (Unique)	North Texas Municipal Water District	$356.61	2009
Marvin Nichols Reservoir	Reservoir (Unique)	North Texas Municipal Water District	$534.13	2020-2030
		Tarrant Regional Water District	$1,482.00	2013-2018
		Upper Trinity Regional Water District	$142.76	2015-2025
Lake Columbia	Reservoir (Unique)	Angelina & Neches River Authority	$279.67	2009-2011
Nueces off-Channel Reservoir	Reservoir (Unique)	Corpus Christi	$54.26	2020-2030
Texana/Palmetto Bend Phase II	Reservoir (Unique)	Corpus Christi	$149.19	2035-2040
Conveyance Project (2)	Reuse	Lakeside	$1.02	2011-2013
		North Richland Hills	$0.09	2012-2013
		Northlake	$2.74	2010
		Rockett Special Utility District	$32.38	2025
		Waxahachie	$11.20	2009
CRWA Siesta Project	Reuse	Canyon Regional Water Authority	$7.00	2018
Direct Reuse	Reuse	Fort Worth	$69.01	2019-2020
DWU Reuse	Reuse	Dallas	$454.88	2009
Facility Improvements (reuse sources)	Reuse	Fort Worth	$130.01	2019-2020
		Upper Trinity Regional Water District	$442.82	2015-2020
Non-Potable Reuse	Reuse	Brownsville	$0.38	2025
		Laguna Madre Water District	$9.68	2009
		Laredo	$14.42	2111
		Mission	$5.11	2009
Purchase Reused Water	Reuse	Diboll	$5.19	2009
Reclaimed Water	Reuse	White River Municipal Water District	$29.75	2020
Reuse	Reuse	Winters	$1.66	2009-2015
Recycled Water Program (phased expansion)	Reuse	San Antonio Water System	$29.07	2011
TRWD Pipeline and Reuse	Reuse	Tarrant Regional Water District	$626.00	2010-2012
Wastewater Reuse	Reuse	Bryan	$6.40	2009-2010
		Round Rock	$14.26	2009
		Sweetwater	$2.93	2009-2010

Attachment A: 2008 Infrastructure Financing Survey Results by Project

Project Name	Project Classification	Sponsor(s)	Amount identified by respondent(s) for state financing programs ($millions)	Reported year(s) of need for financial assistance
Water treatment plant expansion (reuse sources)	Reuse	Lewisville	$3.00	2011
Water treatment plant (reuse sources)	Reuse	Fort Worth	$42.70	2019-2020
Total			**$17,138**	

Appendix L

(4) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section expires December 31, 2011.

SECTION 4.05. EFFECTIVE DATE. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 5. LEGISLATIVE JOINT INTERIM COMMITTEE

SECTION 5.01. (a) In this section, "committee" means the joint interim committee on state water funding.

(b) The committee is composed of eight members as follows:

(1) the chair of the Senate Committee on Natural Resources and the chair of the House Committee on Natural Resources who shall serve as joint chairs of the committee;

(2) three members of the senate appointed by the lieutenant governor; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) An appointed member of the committee serves at the pleasure of the appointing official.

(d) The committee shall meet at least annually with the executive director of the Texas Commission on Environmental Quality and the executive administrator of the Texas Water Development Board to:

(1) receive information on water infrastructure needs as identified in the state water plan;

(2) receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan;

(3) receive analyses of the funding gap and recommendations on how to address those funding needs;

(4) receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities; and

(5) identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.

(e) The committee may hold hearings and may request reports and other information from state agencies as necessary to carry out this section.

(f) The Senate Committee on Natural Resources and the House Committee on Natural Resources shall provide staff necessary for the committee to fulfill its duties.

(g) Not later than December 1, 2008, the committee shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's activities under Subsection (d) of this section. The report shall include recommendations of any legislative action necessary to address

funding needs to support the state's water programs and water infrastructure needs.

ARTICLE 6. WATER DEVELOPMENT BOARD

SECTION 6.01. Section 16.344, Water Code, is amended by adding Subsections (d) through (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after

Appendix M

AGENDA
Joint Committee on State Water Funding
May 14, 2008, 11:00 a.m.
Erik Jonsson Public Library - First Floor Auditorium
Dallas, Texas

I. Call to Order

II. Adoption of Rules

III. Texas Commission on Environmental Quality
- Mark Vickery, Deputy Executive Director

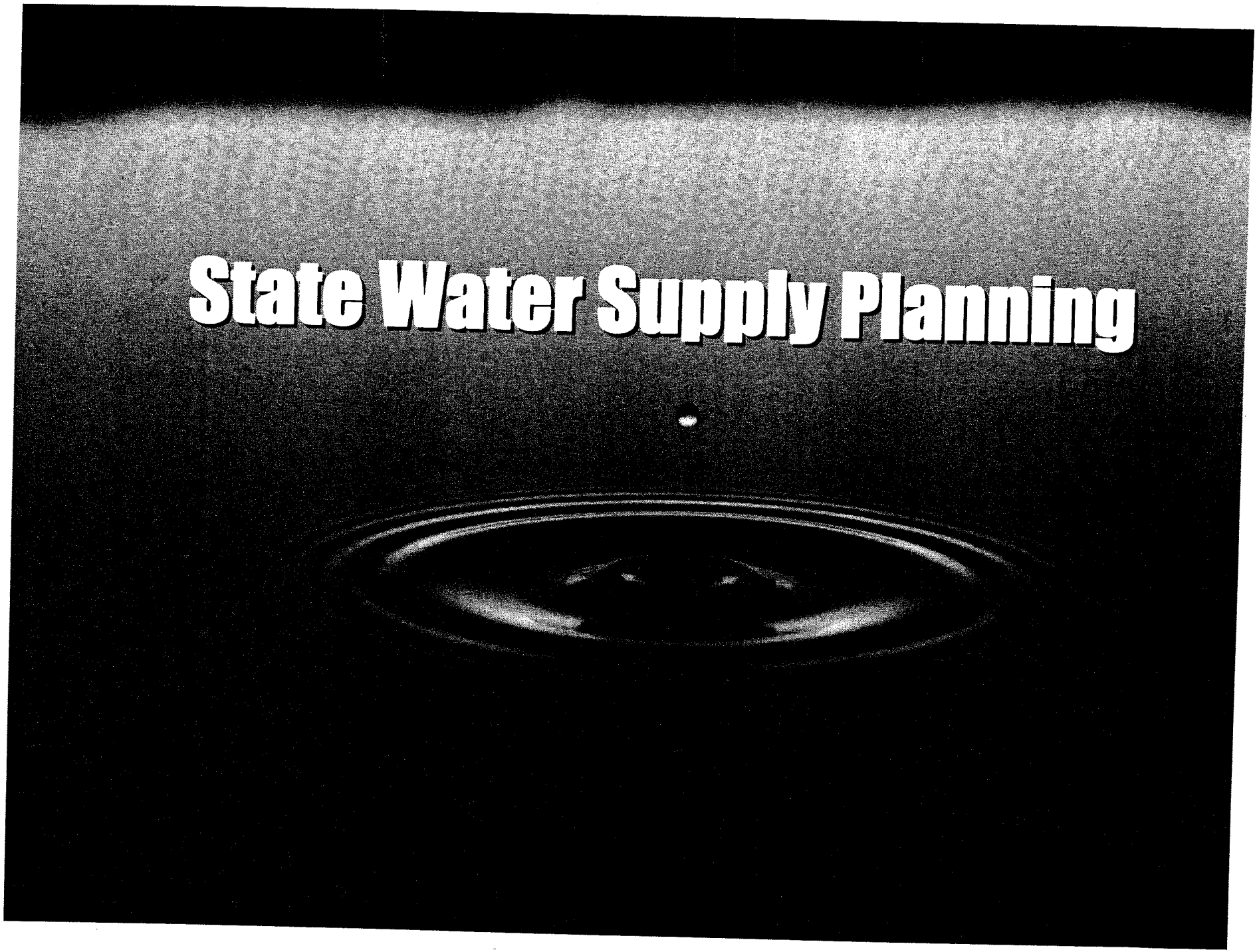
IV. Texas Water Development Board
- Kevin Ward, Executive Administrator

V. Regional Water Project Funding
- Jody Puckett, Water Utilities Director, Dallas Water Utilities
- Jim Parks, General Manager, North Texas Municipal Water District
- Jim Oliver, General Manager, Tarrant Regional Water District

VI. Public/Private Partnerships
- Michael Bartolotta, Vice Chairman, First Southwest Company

VII. Public Testimony

Appendix N


State Water Supply Planning

Basic Planning Assumptions

- Scenario is the drought of record
- Fifty year planning horizon on 5-year cycles
- Plan for individual water user groups
- Project population; begin with census data as base
- 16 regional water plans incorporated into state water plan

Water Planning Process

- Determine existing water demands for 6 sectors (municipal, manufacturing, mining, steam-electric power, livestock, and irrigation)
- Calculate existing supplies (groundwater & surface water that are physically and legally available)
- Compare existing supplies with demands over time to evaluate needs (existing supply – demand = need or surplus)

Water Planning Process

- Evaluate potentially feasible strategies including conservation, drought management, reuse, existing supplies, & new supplies
- Evaluate all potentially feasible strategies for cost, quantity, reliability, and effects of strategies on agriculture, natural resources, water quality, other water resources
- Recommend specific water management strategies for each water user group

2007 State Water Plan Results

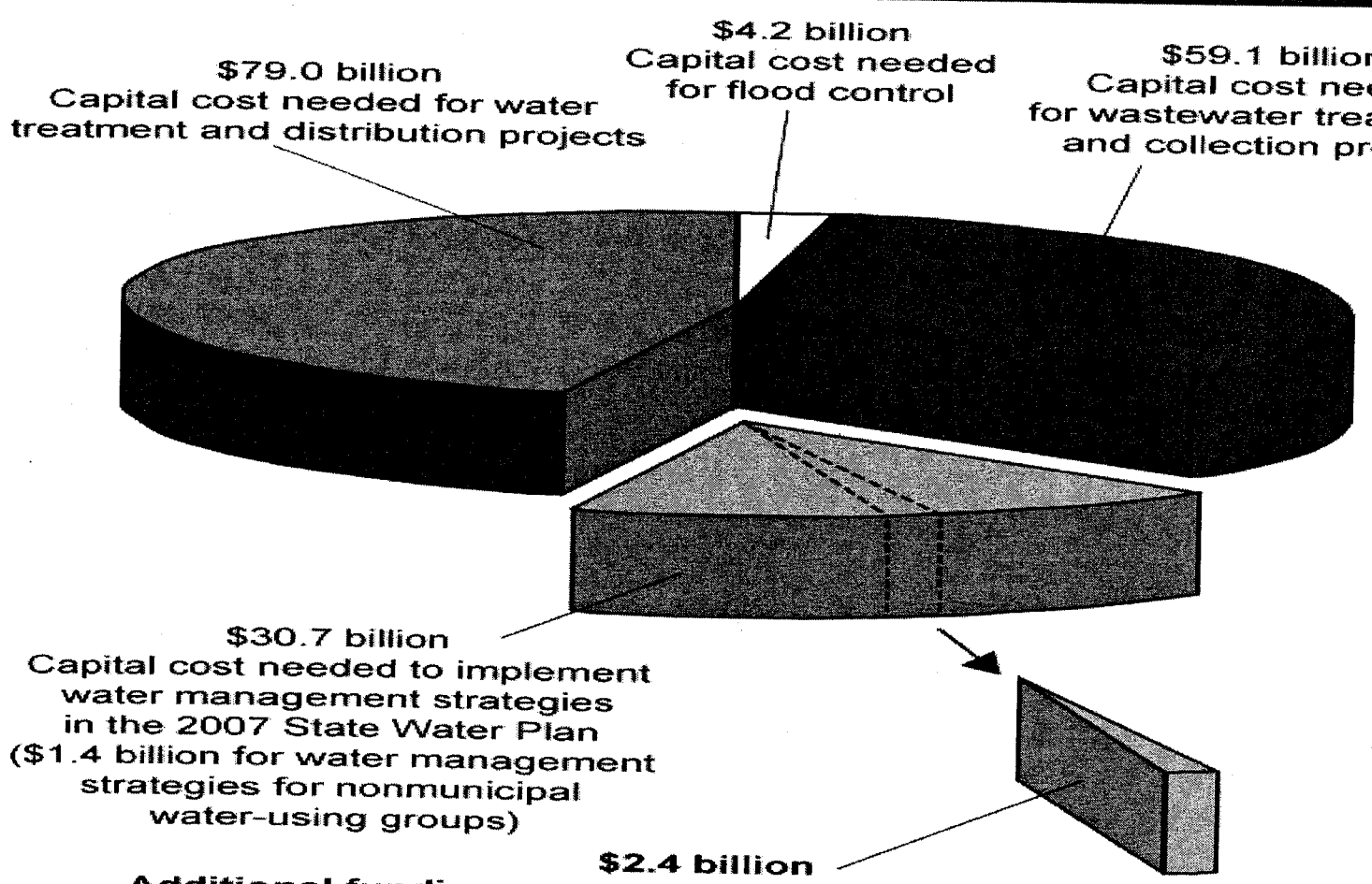
(millions)	2000	2010	2020	2030	2040	2050	2060
Population	20.9	24.9	29.1	33.1	36.9	41.1	45.6
Water Demand (ac-ft)	17.0	18.3	19.0	19.6	20.1	20.8	21.6
Existing Supply (ac-ft)	---	17.9	16.9	16.1	15.4	15.0	14.6
Projected Needs (ac-ft)	---	3.7	4.9	5.9	6.9	7.8	8.8
Recommended Strategies (ac-ft)	---	3.6	5.3	6.2	6.8	8.2	9.0
Unmet Needs (ac-ft)	---	1.8	2.1	2.5	2.7	2.8	2.7
Capital Costs total = $30.7B		$12.8B	$7.1B	$3.6B	$1.4B	$4.3B	$1.5B

2007 State Water Plan Results

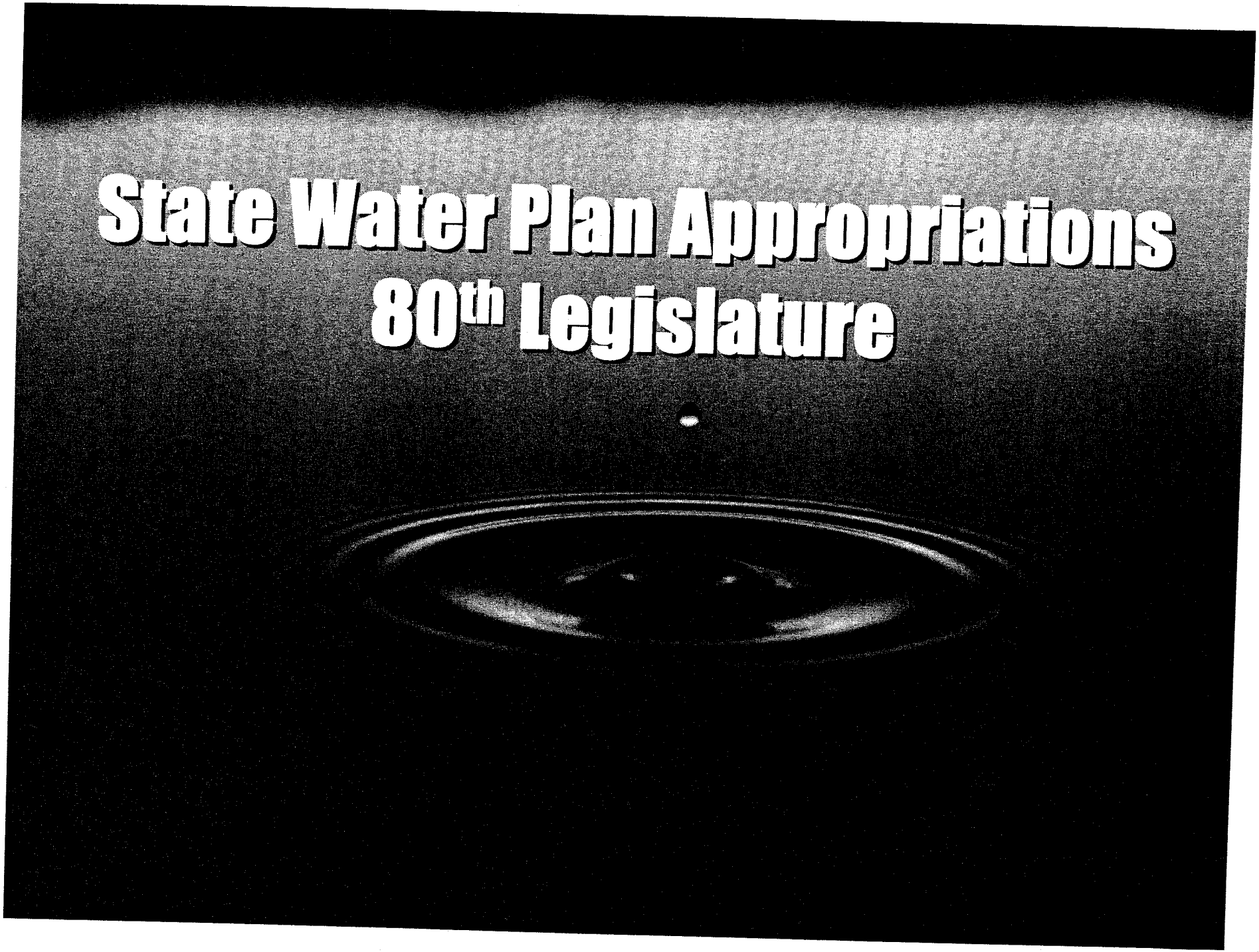
Annual Economic Impacts of Not Meeting Needs

	2010	2020	2030	2040	2050	2060
Regional Income	$9.1B	$19.7B	$29.8B	$44.0B	$66.1B	$98.4B
State and Local Taxes	$466M	$968M	$1.5B	$2.2B	$3.3B	$5.4B
Jobs	119,000	244,000	376,000	552,000	802,000	1.2M
Lost Population	180,000	363,000	554,000	804,000	1.2M	1.8M
School Enrollment	-46,000	-93,000	-141,000	-196,000	-294,000	-438,000

Infrastructure Financing Needs



Total capital cost: $173 billion


State Water Plan Appropriations
80th Legislature

2008-2009 Appropriations

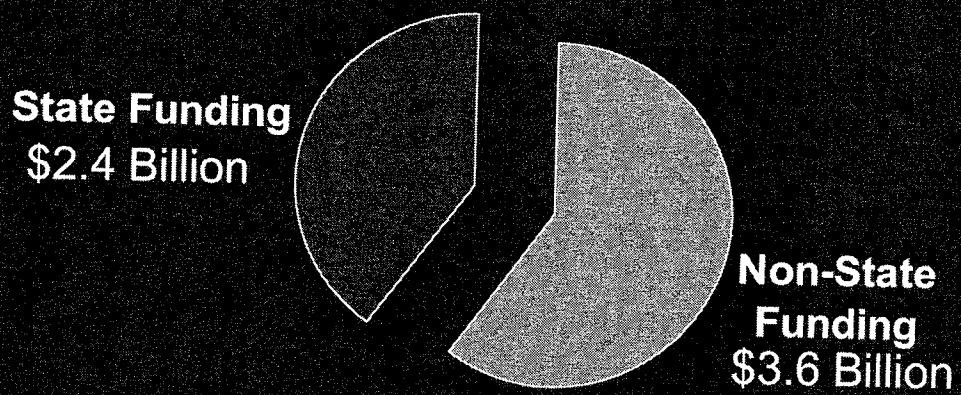
- State Participation Program
- Water Infrastructure Fund
  - Low Interest Loans
  - 10-year Deferral
- Economically Distressed Area Grants
- Rural Grants and Loans (50/50)

Appropriations = Project Funding

PROGRAM NAME	FY 2008 (in Millions)	FY 2009 (in Millions)	Biennium Totals (in Millions)
State Participation for State Water Plan Projects Loans with payment deferrals for construction of excess project capacity	$55.8	$220.3	$276.1
Water Infrastructure Fund Low Interest Loans Low-interest loans for construction of non-excess capacity of State Participation Projects and for projects that do not meet criteria of the State Participation Program	$69.6	$208.6	$278.2
Water Infrastructure Fund 10-year Deferral Payment deferred, low interest loans for development and permitting costs of water plan projects	$80.8	$80.8	$161.6
Water Plan Grants Grants for economically distressed area Water Plan Projects	$9.8	$18.2	$28.0
Water Plan Rural Grants and loans (50/50) for Water Plan projects in rural areas	$6.6	$12.4	$19.0
TOTAL	$222.6	$540.3	$762.9

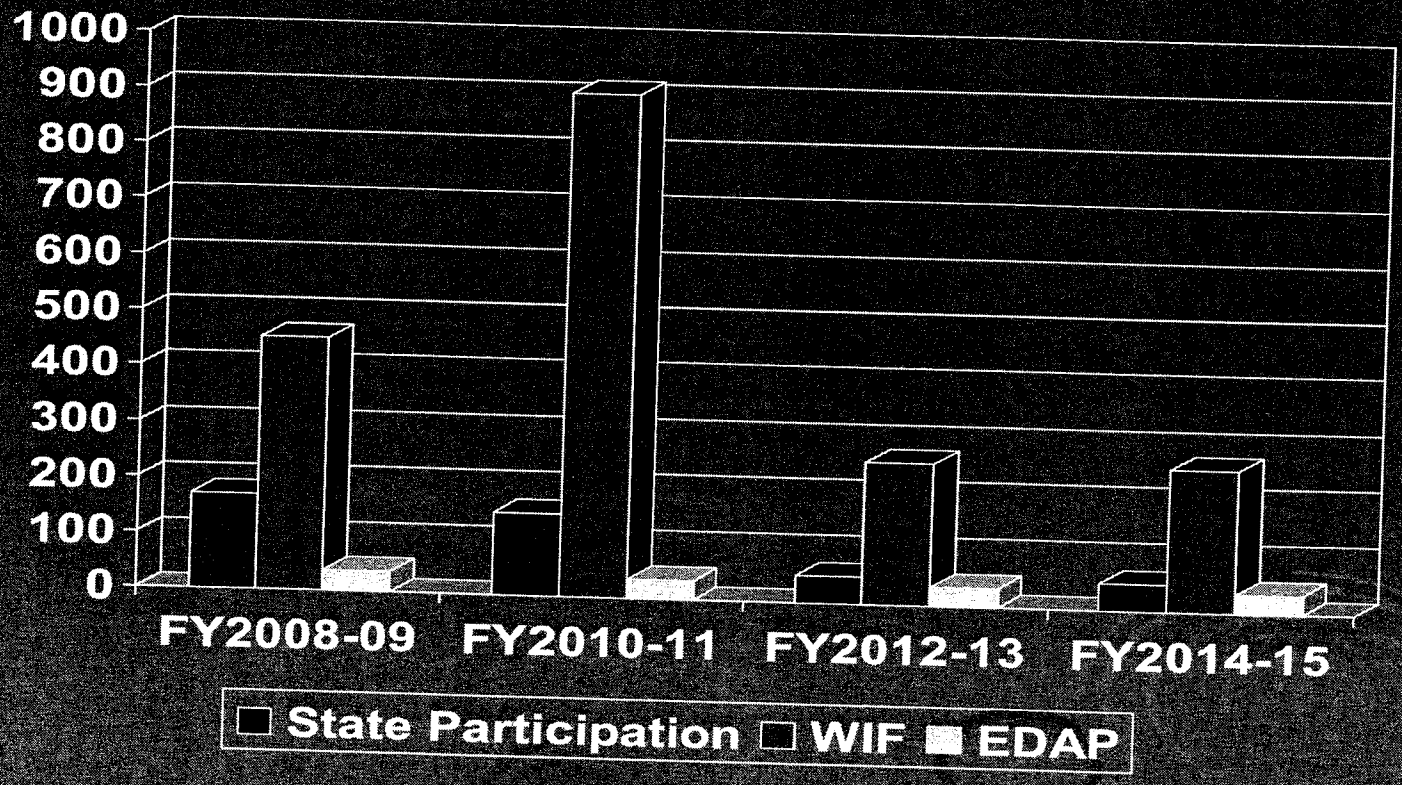
State Funding of Water Plan Projects Needed Through 2020

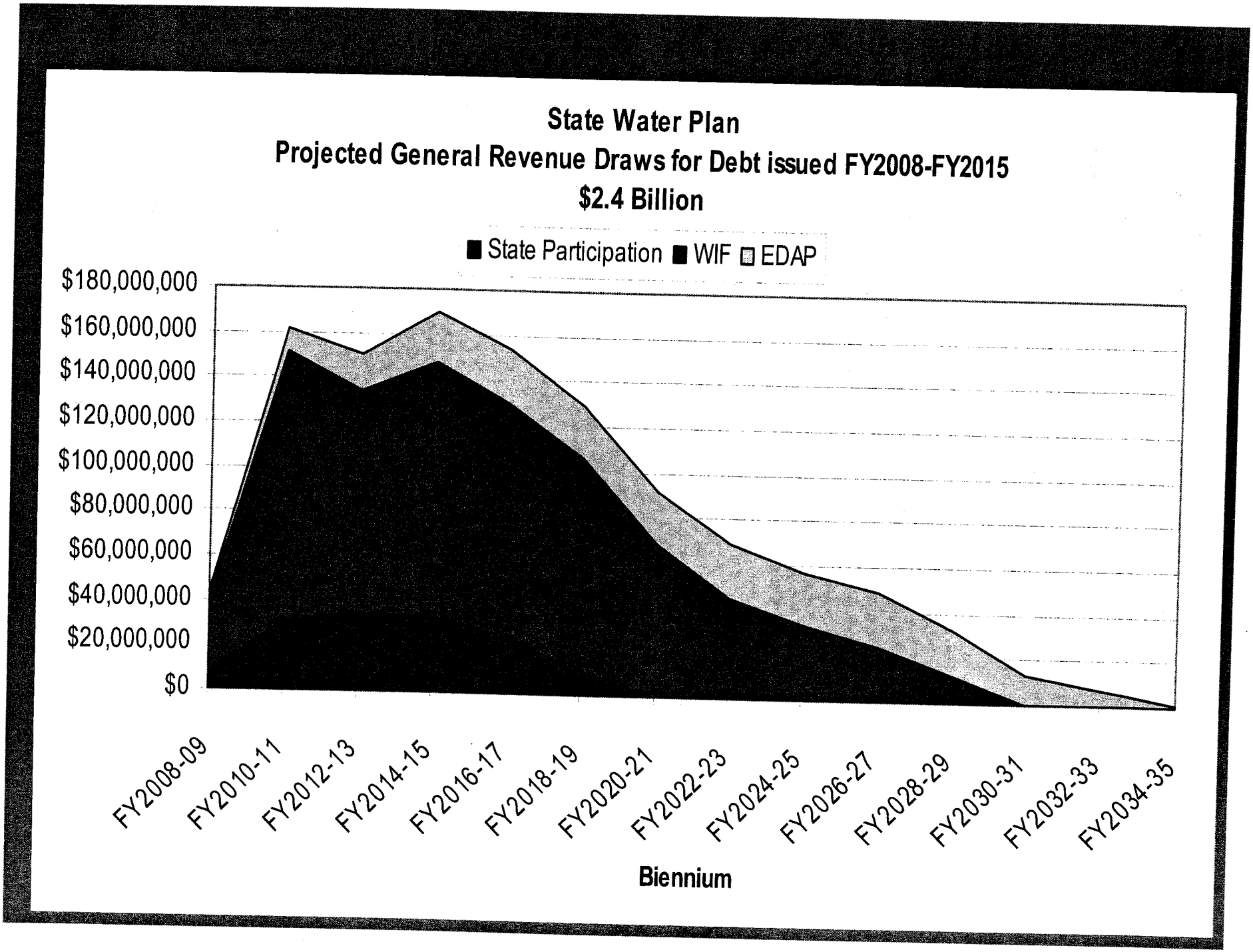
Total Projects of $6 Billion



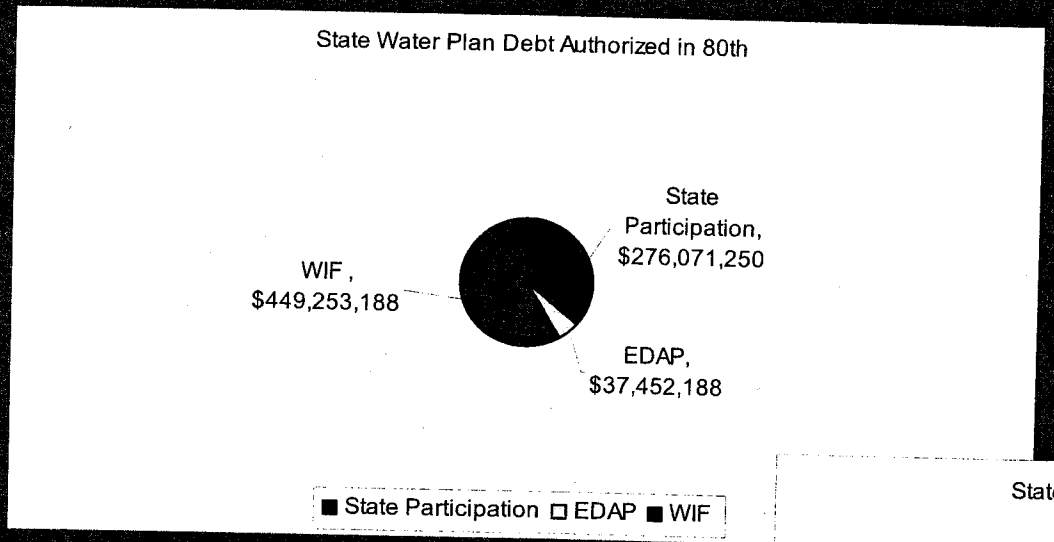
Projected Debt Issuance for State Water Plan Needs Through 2020 Estimated at $2.4 Billion

(in millions)

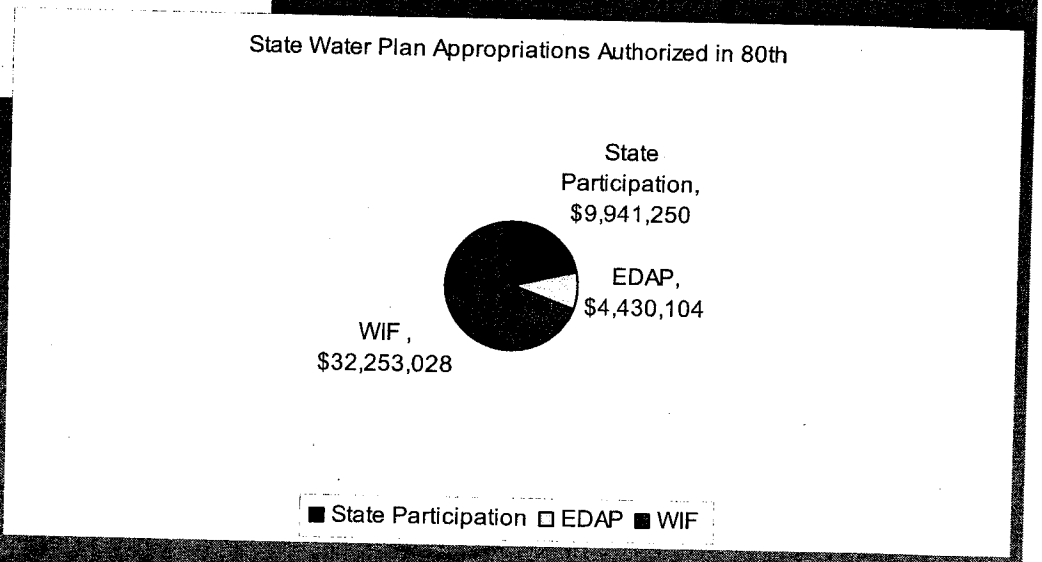



State Water Plan
Projected General Revenue Draws for Debt issued FY2008-FY2015
$2.4 Billion
State Participation
WIF
EDAP
$180,000,000
$160,000,000
$140,000,000
$120,000,000
$100,000,000
$80,000,000
$60,000,000
$40,000,000
$20,000,000
$0
FY2008-09
FY2010-11
FY2012-13
FY2014-15
FY2016-17
FY2018-19
FY2020-21
FY2022-23
FY2024-25
FY2026-27
FY2028-29
FY2030-31
FY2032-33
FY2034-35
Biennium

Legislative Appropriations for State Water Plan FY08-09

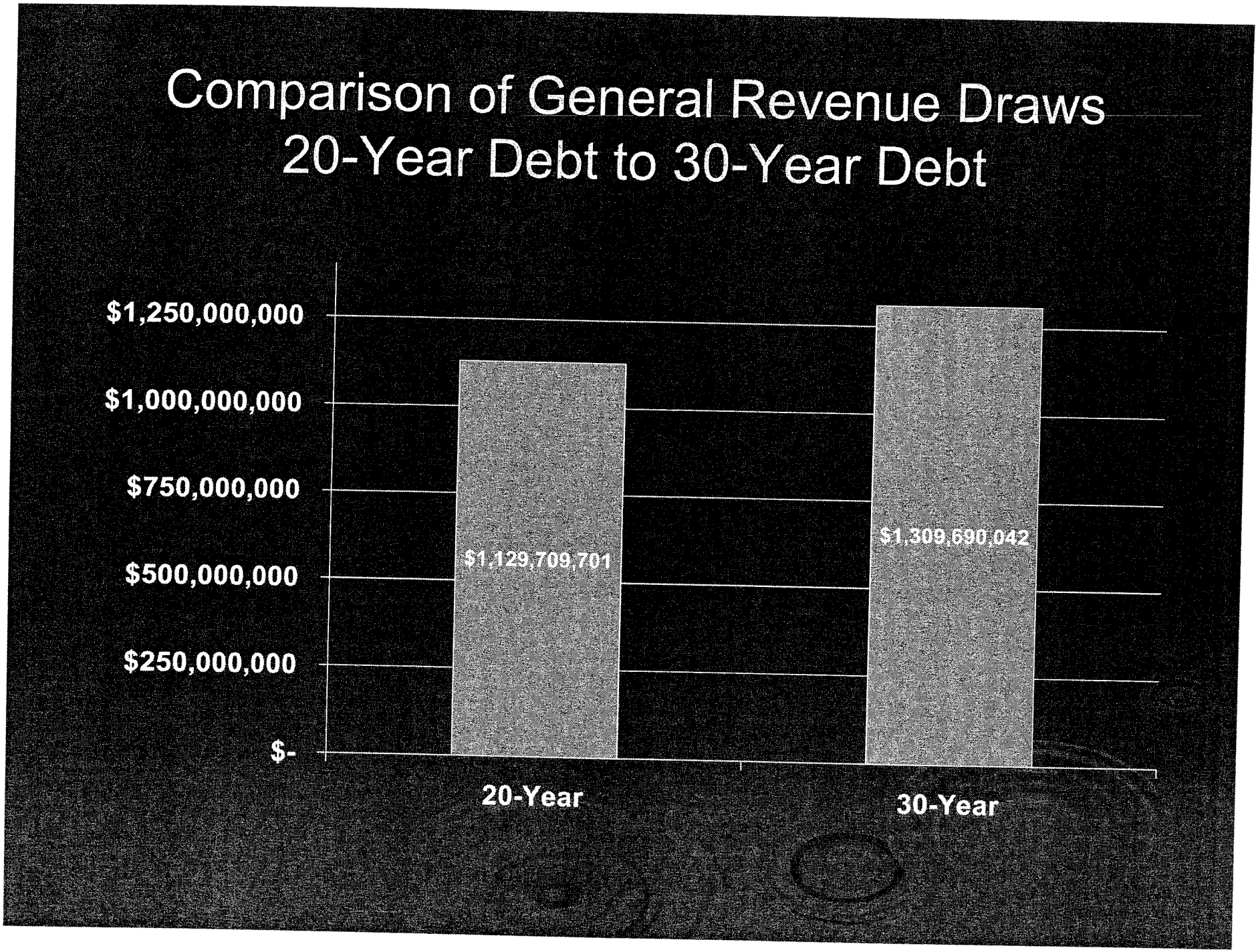


$762.7 million in debt authorized to be issued in FY08-09



$46.6 million in General Revenue appropriated for debt service in FY08-09

Comparison of General Revenue Draws
20-Year Debt to 30-Year Debt



Projected Bond Authority Balances

	Development Fund	EDAP
FY2008	$ 1,883,562,089	$ 262,013,072
FY2009	$ 1,152,228,901	$ 187,560,884
FY2010	$ 534,728,901	$ 145,060,884
FY2011	$ (182,771,099)	$ 102,560,884
FY2012	$ (425,271,099)	$ 60,060,884
FY2013	$ (667,771,099)	$ 17,560,884
FY2014	$ (910,271,099)	$ (25,939,116)
FY2015	$ (1,152,771,099)	$ (67,439,116)

SB 3, 80th Legislature
Priority for Conservation

The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) Which will achieve significant water conservation strategies by implementing the proposed project for which financial assistance is needed.

TWDB Rules on Prioritization

- One point for projects resulting in new water supply (must be recommended in regional and state water plans)
- Up to 5 points based on decade of need for the project in the state and regional water plan
- Conservation (max points = # of applications)

  (a) points awarded for greatest reduction in average GPCD from 1999 to 2005; or

  (b) points awarded on estimates of effective reduction in GPCD resulting from the project

First Round of Funding
March 2008

- $116,355,000 in funding provided for 8 projects
  - Low interest loans for construction = ~$60M
  - 10-year deferrals = ~$57M
- Recipients:

Dallas
Lubbock
Coastal Water Authority
Central Harris Regional Water Authority
Tarrant Regional Water District
Upper Trinity Regional Water District

Second Round of Funding Anticipated September 2008

- Applications for 23 projects from 14 applicants were received by July 1st deadline

- Total funding requested = ~$1B
  - Low interest loans for construction = ~$892M
  - 10-year deferrals = ~$54M
  - Disadvantaged/Rural = ~$8M
  - State Participation = ~$48M

Infrastructure Financing Surveys

2006 Regional Water Plan Surveys

- ✓ Additional State Assistance Needed from 2010 to 2060 WMS = $2.4 billion
- ✓ Additional State Assistance Needed for 2010-2020 WMS = $1.7 billion

2008 TWDB Survey (Preliminary Results)

- ✓ Additional State Assistance Needed for 2010-2060 WMS = $14.8 billion
- ✓ Additional State Assistance Needed for 2010-2020 WMS = $9.9 billion

Appendix O

Testimony provided by TWDB Executive Administrator Kevin Ward on the cost of TWDB's water programs.

May 14, 2008
Dallas, Texas

Estimated TWDB Funding FY08-09

	General Revenue	Other Funds
Environmental Studies	$ 2,331,158	$ 1,464,884
Water Resources Data	$ 4,193,290	$ 3,520,855
Automated Information	$ 5,201,803	$ 4,400,825
Technical Assistance	$ 4,290,064	$ 1,061,276
Water Resources	$ 8,478,461	$17,048,638
Water Conservation	$ 943,000	$ 2,177,738
National Flood Ins	$ 5,698,298	$ 114,398
Financial Assistance	$14,358,544	$14,827,305
EDAP	$ 2,629,901	$ 3,238,197
Administration	$ 7,907,735	$ 5,559,400
Total	$56,032,254	$53,413,516

Estimated TWDB Debt Service Funding FY08-09

	General Revenue	Other Funds
EDAP Debt Service	$ 32,749,655	$ 6,276,734
State Participation	$ 10,634,920	$ 14,412,438
Agricultural Water Cons	$ 5,387,156	$ 3,354
Water Infrastructure	$ 32,594,194	$ 0
Total	$81,365,925	$20,692,526

Joint Committee on State Water Funding

May 14, 2008
Dallas, TX

Mark Vickery
Deputy Executive Director

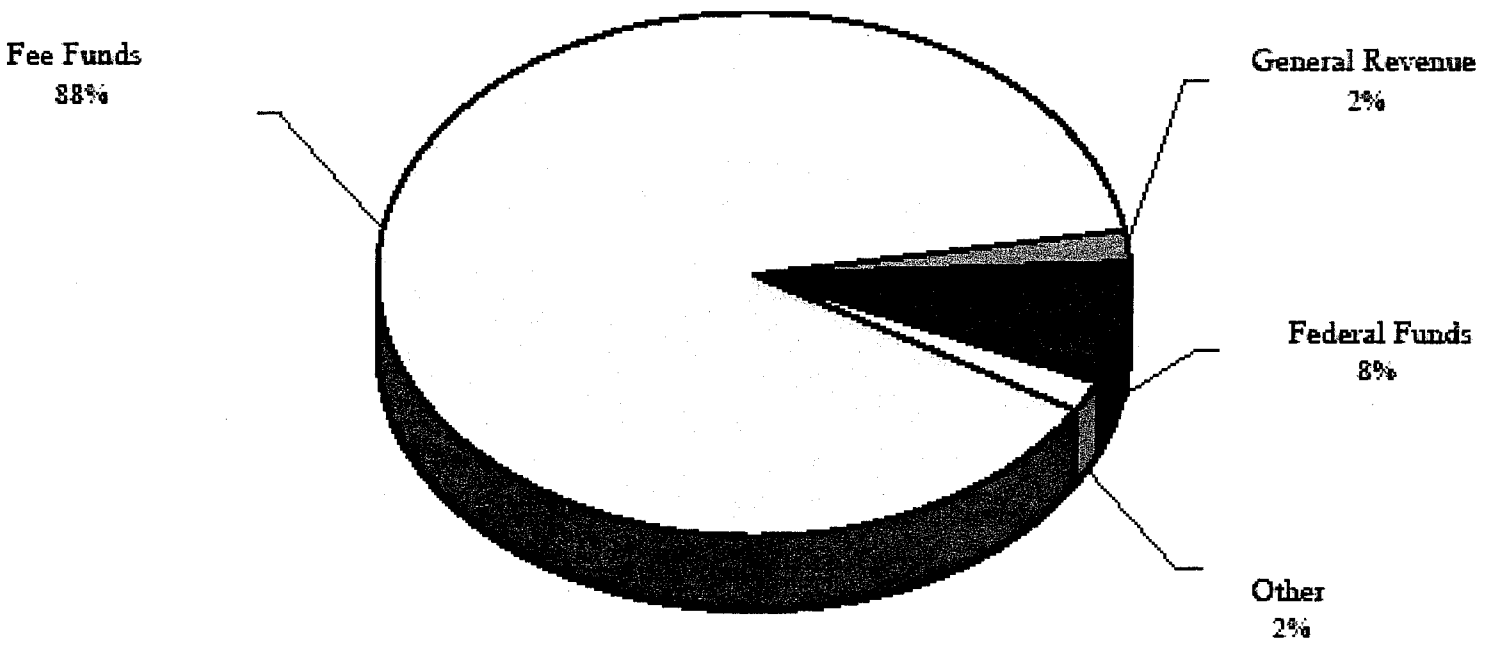
FUNDING OF TCEQ WATER PROGRAMS

- Overall Agency Funding
- State Water Programs
- Funding Background
- Current Funding
- Future Needs
- Challenges

TCEQ IS PRIMARILY A FEE FUNDED AGENCY

- 88% of Agency's Funds are from Fee Revenues
- 2% General Revenue
- 8% Federal Funds
- 2% Other

2008 ANNUAL OPERATING BUDGET
METHOD OF FINANCE



Total = $564.8 million

TCEQ WATER PROGRAMS

- Water Rights
- TMDLs
- Public Drinking Water
- Waste Water
- Dam Safety
- CAFOs
- Districts and Utilities

TCEQ WATER PROGRAMS

- Ground Water Protection
- Stormwater
- River Compacts
- Edwards Aquifer
- Toxicology
- Related Permitting and Enforcement Activities
- Planning

STATE WATER PROGRAM COSTS

- Over the last several years, TCEQ has spent approximately $61.5 million annually in state funds to support its water programs

- This amount includes appropriations and costs related to fringe benefits that are paid from the Water Resource Management Account and General Revenue to the Employee Retirement System that are not directly appropriated to the agency, but are a financial obligation

FUNDING FOR TCEQ
STATE WATER PROGRAMS

- Fees: Revenue from 27 water fees are deposited to Water Resource Management Account #153

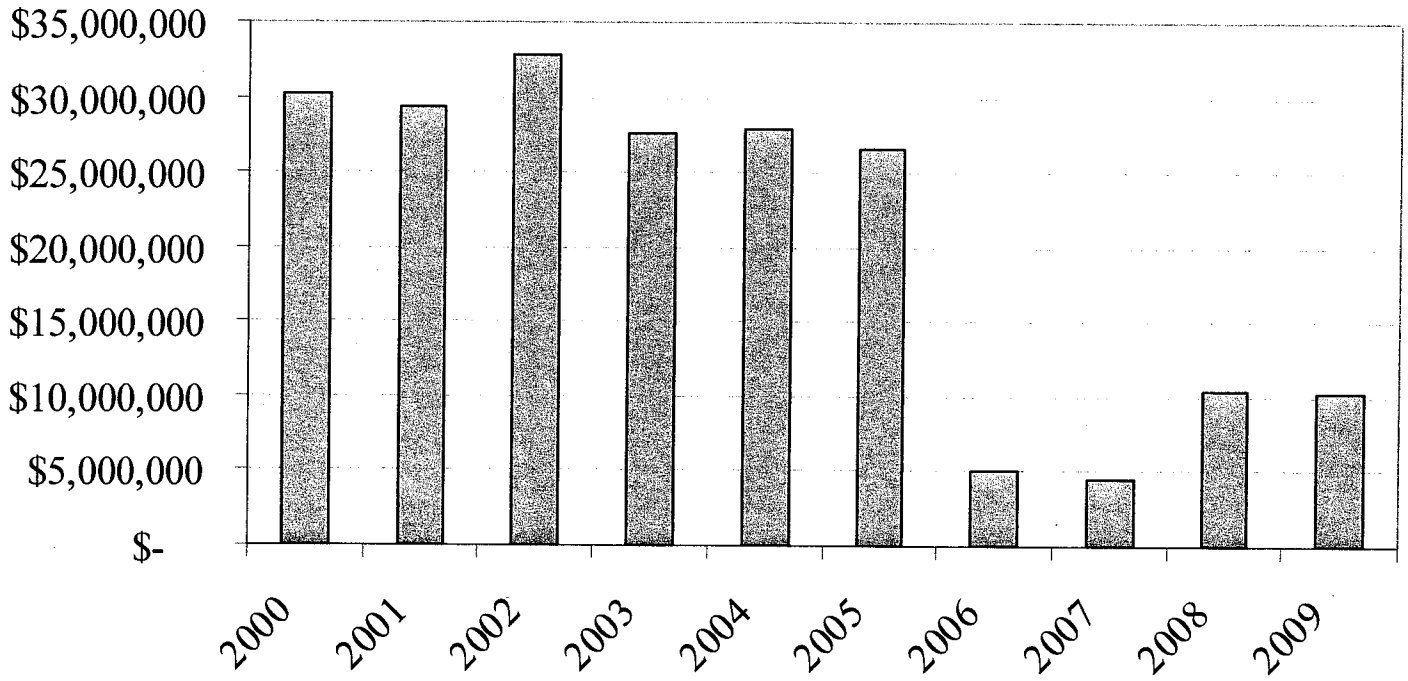
- General Revenue: Historically, 98% of General Revenue appropriated to TCEQ is used to support water-related activities at the agency

GENERAL REVENUE FUNDING FOR STATE WATER PROGRAMS

- $54 million - '04/'05 Appropriation
- $10 million - '06/'07 Appropriation
- In '06/'07 TCEQ was appropriated funds from a balance in the Water Resource Management Account #153 to support water programs that had previously been supported by General Revenue funding

GENERAL REVENUE FROM 2000 - 2009

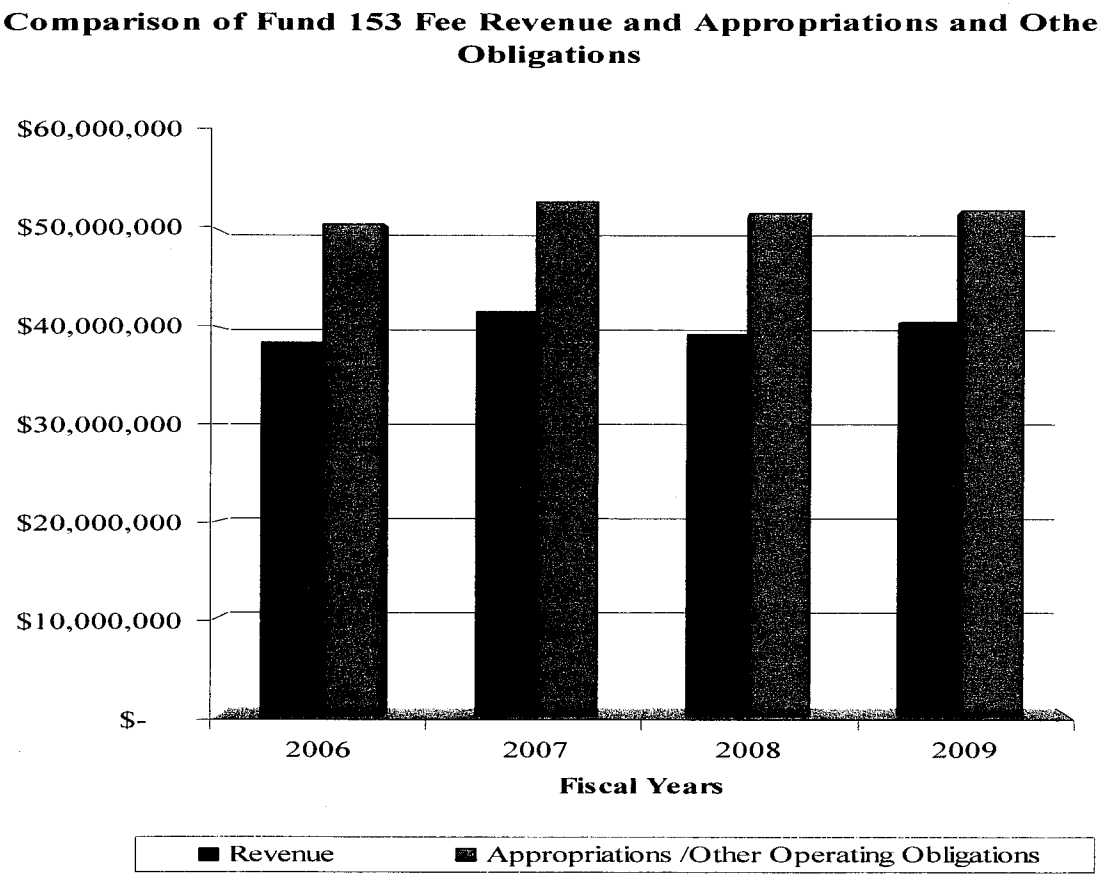
TCEQ General Revenue Appropriations 2000-2009



CURRENT STATE WATER PROGRAM FUNDING – '08-'09

- Approximately $90 million appropriated from Account #153 to support state water programs
- Approximately $17 million appropriated in General Revenue to support state water programs
- Legislature increased General Revenue in '08-'09 to provide funds to support water program at current level of services

REVENUE FROM ACCOUNT #153 AND APPROPRIATIONS



WATER RESOURCE MANAGEMENT ACCOUNT # 153

- Approximately $41 million is deposited annually in fee revenue to Account #153
- Current annual obligations to the fund are approximately $52 million annually
- Unobligated balances in Account #153 used in '06-'07 and '08-'09 bienniums are being depleted

FUTURE FUNDING NEEDS

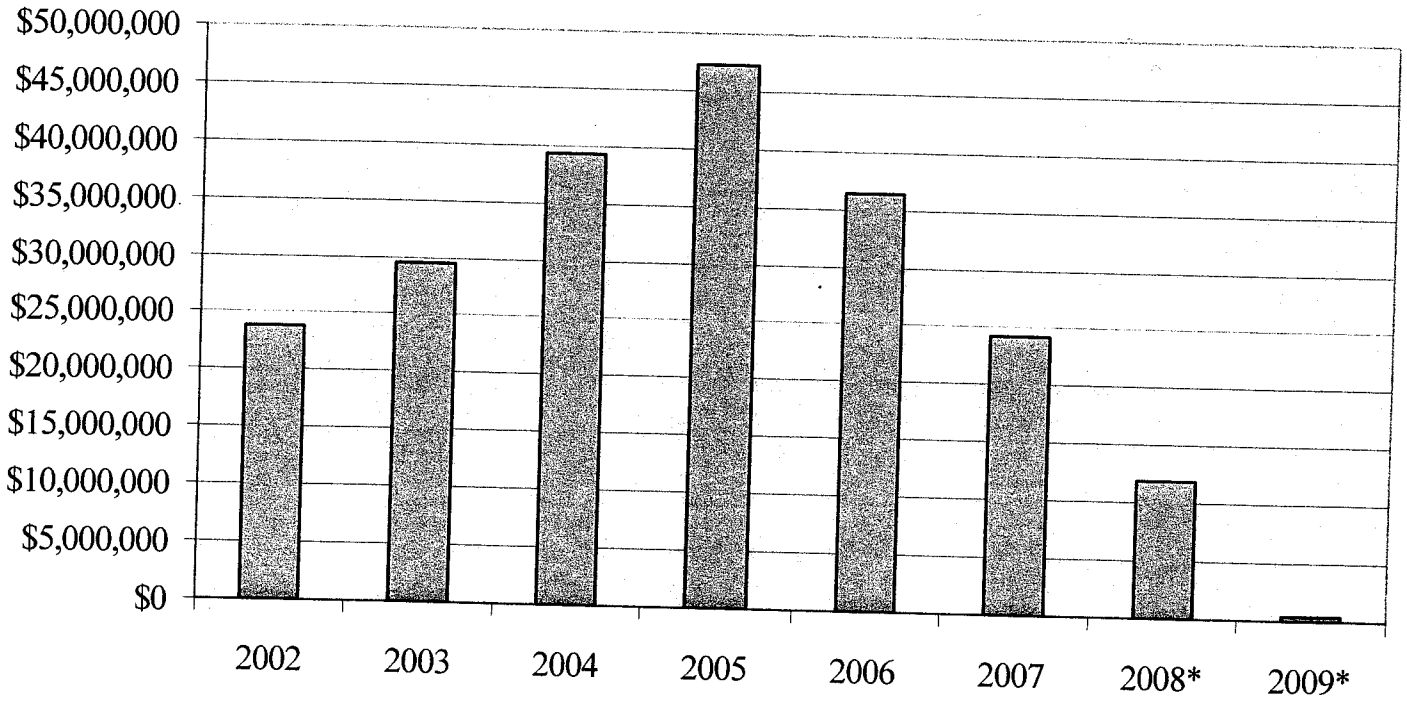
Absent increases in fee revenue collections or General Revenue, the agency projects to be in the red by FY 2010

FUTURE FUNDING NEEDS

- If the legislature continues to appropriate the current level of General Revenue for water programs, an additional $14 million in water fee revenue will need to be collected annually
- If the legislature decides to eliminate General Revenue to TCEQ, then the additional fee revenue needed would be approximately $22.5 million
- These amounts, however, are based on no additional increases to the current level of funding for the state's water programs

FUND BALANCES FOR ACCOUNT #153

TCEQ Fund 153 Unobligated Ending Fund Balance 2002-2009*



*2002-2007 from TCEQ Annual Financial Report. 2008-2009 are projected unobligated ending fund balances.

CHALLENGES

- Fee revenues deposited to Account #153 have remained stable while overall obligations have increased
- TCEQ is being appropriated significantly less General Revenue than in previous years
- TCEQ administers several water programs that do not have a fee associated with the specific activity - Dam Safety and TMDLs

FUNDING OPTIONS TO SECURE ADDITIONAL REVENUE

- Increase fee revenue deposited to Account #153
- General Revenue

SUMMARY

- Secure funding for the state's water programs in an equitable and cost-efficient manner

- Work with the legislature and the many stakeholders to make certain that an appropriate level of funding is available to fulfill the goal of managing and protecting the state's water resources

Texas Commission on Environmental Quality

Water Resource Management Account (153) Fee Description, Authority, Rate, Revenue, Payors

Fee Description	Statutory Authority	Rule or Statute	Fee Rate	Actual Fee Revenue (FY 2006)	Actual Fee Revenue (FY 2007)	Projected Fee Revenue (FY 2008)	Who Pays	Estimated Last Rate Change?
Consolidated Water Quality Fee (WWI + WQA)	Water 26.0291 & 26.0135(h)	Rule 21.1 and 21.3	$400 - $75k depending on volume, pollutants, toxicity, etc.	$ 18,312,242	$ 18,486,225	$ 18,400,000	Waste water treatment facilities, industrial facilities with waste water	9/1/2002
Water Quality Permit Application Fee	Water 5.701	Rule 305.53	$100 - $2,000	$ 682,030	$ 865,433	$ 850,000	Water Quality Permit Applicants	9/1/1997
Water Use Assessment Fee (previously part of 3376, WQA)	Water 26.0135(h)	Rule 21.3(c)	For consumptive use, $0.22 to $0.08 per acre-foot, depending on usage; for non-consumptive use $0.021 to $0.0007 per acre-foot, depending on use, ; $5 million revenue max/yr	$ 416,483	$ 412,912	$ 500,000	For certain water rights holders in the state	10/6/2002
Water Use Permit Application Fee	Water 5.701(c)	Rule 295.132	$100-$2,000	$ 151,947	$ 96,944	$ 150,000	Fee components incl: recording, mail notice, change of ownership	1/7/1994
Temporary or Emergency Water Use Permits	Water 11.138(g)	Rule 295.132, .134	$100 - $250, based on # acre-feet, plus notice, max $500	$ 27,255	$ 24,204	$ 22,000	Assessed when applications are filed with TCEQ, Water Districts	1/7/1994
Application for Cert of Public Convenience & Necessity (CCN)	Water 13.4522(a)	Rule 291.7	$100/application	$ 4,000	$ 5,750	$ 6,000	Water and Waste Water Suppliers	10/9/1990
Sale, Transfer or Merger of Cert of Public Convenience & Necessity (STM)	Water 13.4522(b)	Rule 291.7	$50 - $500 based on # of water or sewer connections	$ 7,550	$ 3,650	$ 6,000	Water and Waste Water Suppliers	10/9/1990
Water Utility Regulatory Assessment Fee	Water 5.701(n)	Rule 291.76	0.5% to 1% of utility companies' retail water svc charges	$ 5,680,960	$ 6,232,930	$ 6,145,000	Invester-owned utilities, water districts, water supply corporations	9/1/1997
Public Health Service Fee	Health & Safety 341.041	Rule 290.51(a)(3)	$75 minimum, then based on # of retail connections	$ 3,940,209	$ 4,074,057	$ 3,955,000	Suppliers of public drinking water	12/30/2001
Water Utility Bond Issue Application Fee	Water 5.701(f)	Rule 293.43	$500 plus cost of notice	$ 96,663	$ 95,700	$ 80,000	For entities issuing bonds	10/22/1996
Water Utility Bond Issue Proceeds Fee	Water 5.701(f)	Rule 293.45	0.25% of bond issue principal	$ 1,793,201	$ 1,981,307	$ 1,839,000	Water Utilities	4/15/1994
Water District Creation Application Fee	Water 5.701(e)	Rule 293.11	$700 plus cost of notice	$ 44,650	$ 45,500	$ 40,000	Water Districts	9/1/1997
Misc. Water District Application Fees	Water 5.701(b)	Rule 295.132	$100 plus cost of notice	$ 38,150	$ 28,524	$ 28,000	Assessed when applications are filed with TCEQ, Water	1/7/1994
Rate Change Application Fee	Water 13.4521(a)	Rule 291.7	$50 - $500 based on # of water or sewer connections	$ 15,850	$ 18,361	$ 16,000	Water and Waste Water Suppliers	10/9/1990

Texas Commission on Environmental Quality
Water Resource Management Account (153) Fee Description, Authority, Rate, Revenue, Payors

Fee Description	Statutory Authority	Rule or Statute	Fee Rate	Actual Fee Revenue (FY 2006)	Actual Fee Revenue (FY 2007)	Projected Fee Revenue (FY 2008)	Who Pays	Estimated Last Rate Change?
Water rate appeals Filing, application, petition, recording fees	Water 5.701(b) Water 11.041 (b)	Statute	$100 application + $25 deposit	$ 725	$ -	$ 1,000	Water Districts	9/1/1997
General Permit Water Discharge Application	Water 5.701	Rule 205.6	$100; except CAFOs $350, $325 for paper and $225 for electronic stormwater application	$ 1,399,236	$ 2,219,650	$ 1,269,000	General Water permit holders	3/5/2008
General Permit Stormwater	Water 26.040	Rule 205.6	$100	$ 2,550,593	$ 3,457,464	$ 2,800,000	for permits that fall under the general storm water pemit	9/1/1997
General Permit Wastewater	Water 26.040	Rule 205.6	$100-$800 depending on type	$ 707,432	$ 724,841	$ 783,000	for permits that fall under the general waste water pemit	9/1/1997
Surface Casing Expedited Letters	Water 5.701(r)	Rule 339.3(c)	$75	$ 962,025	$ 1,176,050	$ 959,000	Oil/Gas Exploration	9/1/2003
Edwards Aquifer Development Application Fee - Austin Region	Water 26.0461(d)	Rule 213.14	$650 - $10,000 based on acreage, sewage system, linear feet of pipe, etc	$ 642,415	$ 494,161	$ 501,000	Permit applicants within the Edwards Aquifer	5/1/2008
Edwards Aquifer Development Application Fee - San Antonio Region	Water 26.0461(d)	Rule 213.14	$650 - $10,000 based on acreage, sewage system, linear feet of pipe, etc	$ 574,665	$ 748,654	$ 563,000	Permit applicants within the Edwards Aquifer	5/1/2008
On-Site Sewage Disposal System Permit (Wastewater Treatment Inspection)	Health & Safety 366.058	Rule 285.21	$200 for single family dwelling, $400 for other	$ 226,700	$ 293,300	$ 231,000	Septic tank installation permit, individuals and businesses	6/13/2001
Water Saving Performance Stds. (a.k.a.Plumbing fixture inspection) Fee	Health & Safety 372.002(d)	Rule 290.255	$50 initial, $25 annual	$ 44,460	$ 39,730	$ 50,000	plumbing fixture manufacturer	7/7/1994
Boat Sewage Disposal Device Cert.	Water 26.044	Rule 321.7	$15 - $35	$ 23,295	$ 5,575	$ 8,000	Boat Owners	7/3/1986
Water Use Permit - Construction Delay	Water 11.145	Rule 295.132, .134	Varies based on # acre-feet, plus cost of notice, $1,000 max	$ -	$ -	$ 1,000	Water Districts	1/7/1994
Disposal Waste, Injection, or Gas Well	Water 27.014	Rule 305.53	Application Fee: $100 non-hazardous, $2,000 Hazardous	$ 14,450	$ 27,445	$ 14,000	Permit Applicants	9/1/1995
Municipal Waste Permit	Water 5.701	330.59(h)(1) & 305.53	$100 Application + $50 Notice	$ 10,500	$ 32,600	$ 10,000		

Appendix P

AGENDA
Joint Committee on State Water Funding
July 9, 2008, 10:00 a.m.
Lone Star College System Training and Development Center, Room 102
The Woodlands, Texas

I. Call to Order

II. Texas Water Development Board
- Kevin Ward, Executive Administrator

III. Texas Commission on Environmental Quality
- Mark Vickery, Executive Director

IV. Regional Water Funding Panel
- Jeff Taylor, Deputy Director, Houston Water Utilities and Chair, Region H Regional Water Planning Group
- SuEllen Staggs, Utilities Director, City of Sugarland
- Michael Page, General Counsel, Woodlands Municipal Utility Districts and the San Jacinto River Authority
- Jimmie Schindewolf, General Manager, North Harris County Regional Water Authority

V. Public-Private Partnerships Panel
- Joe Beal, Senior Consultant, PBS&J
- John Ma, Managing Director, Public Sector and Infrastructure Investment Banking, Goldman Sachs
- Charles Jones, President and C.E.O., Inland Public Properties Development Inc.
- Susan Butler, Water Resources Manager, CH2M Hill
- Michael Deane, Associate Assistant Administrator, Office of Water, Environmental Protection Agency

VI. Public Testimony

VII. Recess

Appendix Q

PRESENTATION TO THE JOINT SENATE/HOUSE COMMITTEE ON NATURAL RESOURCES HOUSTON, TEXAS

Prepared by:

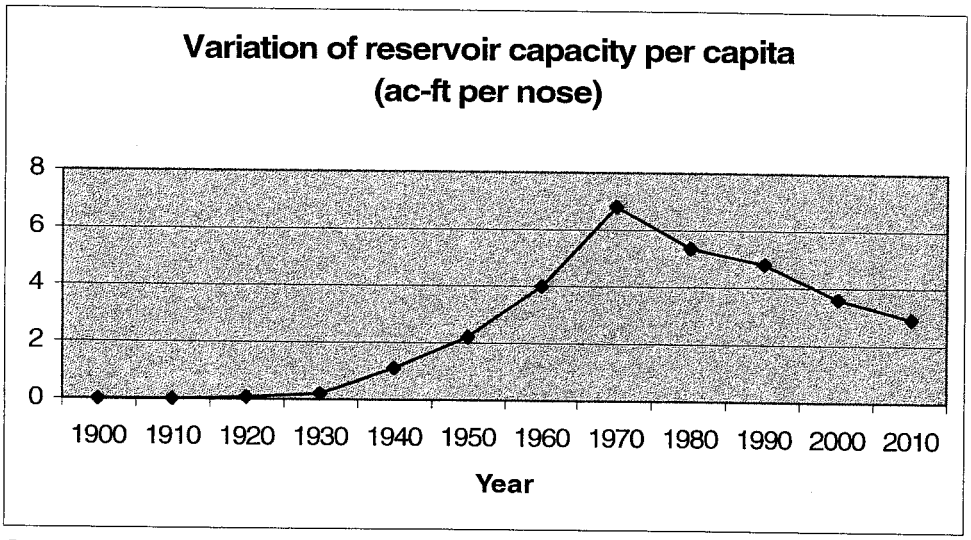
PBS&J
6504 Bridge Point Parkway
Suite 200
Austin, Texas 78730

July 9, 2008

PRESENTATION TO THE JOINT SENATE/HOUSE COMMITTEE ON NATURAL RESOURCES HOUSTON, TEXAS

My name is Joe Beal and I am here today as a consultant to PBS&J, an engineering and environmental consulting firm with offices located throughout Texas and the nation. I recently finished my career at the Lower Colorado River Authority serving as chief of the water division for four years and as general manager for the last eight years.

My comments today are not about how to raise money to solve current and future water-supply problems and challenges in Texas, but are about how state-generated funds might be used. I believe we are behind the curve in solving future water-supply problems. The figure below is a graph that depicts where I think we are in water development in Texas. As you study the graph, you will see that we are about where we were just before the drought of the 1950s in terms of stored water supplies per capita in the state.



Source: G. Ward, Jr., Center for Research in Water Resources, The University of Texas at Austin, September 2000.

In the 1950s when we finally realized that we were in a drought, we, as a state, pitched in and solved the problem. We immediately implemented water conservation and built new reservoirs. It was relatively easy to do in the 50s—permitting was not the time-consuming process that it is today. When the decision was made to build a water-supply reservoir, construction could start in a matter of months since many reservoir sites were already identified. Today the permitting process alone can take decades. Things have changed—maybe for the better. As the graph indicates, we built new storage reservoirs until about 1972, roughly a 20-year period. Since 1972 very few reservoirs have been constructed, but our population has continued to increase and we have doubled the number of people in the state that need water. But we are where we are, and we may have a serious problem right in front of us.

I think the solutions will include a combination of pipelines, storage facilities, and development of underground water supplies along with a hefty dose of water conservation. That is what the Senate Bill 1

planning process has shown us. Generally speaking, the future water supply solutions have been identified to the extent that we actually know what the future demands are and where they will be. I also believe that we do not have a good handle on future electric water demands—but they will be significant.

However, any of the solutions and demands is likely to change, or at least impact, flow regimes in our rivers, bays, and estuaries. That will trigger a regulatory and political process that will require good science which will be a very expensive and long process. This science does not currently exist in the Senate Bill 1 plans.

Years ago when the Clean Water Act was passed, a concept was embedded in the regulations called "The Continuing Planning Process." The regulations could change when more information was developed. Today the buzz word is *adaptive*. But the requirement for this process is the same—improved knowledge about costs and environmental impacts.

A good example of this is the current planning being accomplished by the Lower Colorado River Authority and the San Antonio Water System (LCRA/SAWS) in Regions K and L of Senate Bill 1 planning framework. This plan envisions moving a substantial amount of water from the Colorado basin to the San Antonio basin, irrigation conservation, and development of coastal underground water to be used in the lower Colorado River basin for irrigation. In fact it took specific legislation for this project to move forward and that legislation required the LCRA Board to make certain findings before the project could be implemented. These requirements are:

Legislative Requirements to Accomplish
the LCRA/SAWS Water Supply Project

1. The project must benefit the watershed of the Colorado basin, including municipal, agricultural, recreational, and environmental interests.
2. The project must be consistent with the regional water plans under Senate Bill 1.
3. The inflows to Matagorda Bay must be adequate to maintain ecological health and productivity.
4. Instream flows in the Colorado River must be protected and adequate.
5. San Antonio will have to implement a drought contingency and water conservation plan that will result in highest practicable levels.
6. The project must provide for public input and a scientific review process to develop information to establish beneficial bay inflow and instream flow requirements.
7. The project must benefit stored water levels in existing LCRA reservoirs.

In order to develop the science, data, and engineering facts that are needed to answer the questions raised by the legislative requirements, and after a lengthy and rigorous public involvement process that shaped the scope of needed studies, it was determined that studies would cost approximately $50 million and span over five years. Based on public input, it was determined that substantially more data was needed in the areas listed below:

- Bay and estuary flow requirements
- Instream flow needs
- Basic hydrologic modeling
- Rare and endangered species studies
- Site studies for off-channel reservoirs
- Underground water modeling
- Highland Lakes reservoir modeling
- Preliminary design and cost estimation
- Right of way determination
- Water well siting
- Operation and maintenance cost estimation

These studies are ongoing and are being paid for by SAWS, but will be paid for by the LCRA and SAWS should the project not go forward. The studies could have been compressed in time but budget and water rate constraints dictated that more time be taken to accomplish the task. I believe this kind of analysis with this magnitude of scope is going to be required of any major water development project in the future.

Generally speaking, water utilities and river authorities will be able to provide most of the funds needed to pay for financing future water-supply projects. Water rate bases and special taxing districts should be able to provide the revenue to fund many projects. State assistance and public-private partnerships will no doubt also be required to achieve the future water supplies that this state will need. After all, we will probably double our population in the next 30 to 40 years.

The Texas Water Development Board (TWDB) produced a very good piece of work in May of this year titled *Potential Revenue Sources for Funding Texas Water Programs*. In this analysis, the TWDB, in conjunction with the Texas Commission on Environmental Quality (TCEQ) and the State Comptroller's Office, analyzed five different methods of creating revenue for future water projects:

1. Sales tax on retail sales of utility water and sewer
2. Water conservation and development fee proposed under Senate Bill 3
3. Water rights fee
4. Tap fee on public water supply connections
5. Sales tax on bottled water

Tables 1 through 6 are from the TWDB report and show the results of the analysis and revenue estimates. These methods could raise from $50 to $170 million per year, depending on which one was chosen to pursue, if any are viable.

This type of cash flow would be adequate to fund much of the front-end work needed to start implementing the Senate Bill 1 plans and fund it quickly. In this way the real viability of the current plans

could be determined, hopefully before the actual future water supply becomes needed. In essence, this is simply another step in the planning process but an absolutely critical step that otherwise might take a very long time to accomplish.

Should projects prove feasible and progress to final financing, the cost of these front-end studies could become a project cost, be financed, and money returned to a revolving fund for future water-supply development. This kind of cash flow in the future, at today's interest rates, could fund over a billion dollars of supporting studies and projects to implement future water infrastructure systems.

I believe we must move forward with our next phase of planning and be prepared to bring these projects to reality.

Table 1: Potential Revenues Generated from a Sales Tax on Retail Water Service Provided by Community Public Water Suppliers in Texas ($ millions)

	Estimated utility sales (water)	Estimated taxable utility sales (water)			
	2007	2008	2009	2010	2011
Residential	$2,162	$1,418	$1,465	$1,514	$1,565
Commercial	$561	$594	$614	$635	$656
Irrigation	$103	$110	$114	$118	$122
Industrial	$245	na	na	na	na
Government, fire and other/unspecified	$288	na	na	na	na
	Projected tax revenues (water)				
State tax revenues (6.25% of taxable revenues)	na	$133	$137	$142	$146
Local tax revenues (1.80 % of taxable revenues)	na	$38	$39	$41	$42
Administrative fee for utilities (0.5% of tax revenues)	na	$0.85	$0.88	$0.91	$0.94
Total tax revenues to state and local government	na	$171	$175	$182	$187

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial accounts
- government and institutional accounts
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 2: Potential Revenues Generated from a Sales Tax on Retail Sewer Service Provided by Community Public Water Suppliers in Texas ($millions)

	Estimated utility sales (sewer)	Estimated taxable utility sales (sewer) *			
	2007	2008	2009	2010	2011
Residential	$1,643	$1,078	$1,114	$1,151	$1,189
Commercial	$303	$321	$332	$343	$354
Irrigation	$0	$0	$0	$0	$0
Industrial	$132	na	na	na	na
Government, fire and other/unspecified	$155	na	na	na	na
	Projected tax revenues (sewer)				
State tax revenues (6.25% of taxable revenues)	na	$87	$90	$93	$96
Local tax revenues (1.80 % of taxable revenues)	na	$25	$26	$27	$28
Administrative fee for utilities (0.5% of tax revenues)	na	$0.56	$0.58	$0.60	$0.62
Total tax revenues to state and local government	na	$112	$116	$120	$124

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial
- government and institutional,
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 3: Potential Revenues Generated from a Water Conservation and Development Fee as Proposed Under Senate Bill 3 of the 79th Texas Legislature ($millions)

	Estimated utility sales volume (acre-feet)	Estimated taxable utility sales volume (acre-feet)			
	2007	2008	2009	2010	2011
Residential	2,076,620	982,631	990,827	999,090	1,007,423
Commercial	577,716	570,884	575,645	580,446	585,287
Irrigation	114,426	115,381	116,343	117,313	118,292
Industrial	315,173	na	na	na	na
Government, fire and other/unspecified	249,572	na	na	na	na
	Projected tax revenues ($millions)				
Total fee revenues	na	$71	$71	$72	$72
Administrative fee for utilities (0.5% of fee revenues)	na	$0.35	$0.35	$0.36	$0.36
Total fee revenues to the state	na	$70	$71	$72	$72

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial
- government and institutional,
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 4: Potential Revenues Generated from a Fee on Water Rights in Texas (2008-2011)

	Annual volume permitted (acre-feet)	No. of permit holders	Avg. volume per permit holder (acre-feet)	Projected annual fee revenues ($millions)	Avg. annual cost per permit holder
Municipal	3,068,153	422	7,271	$4.60	$10,906
Multiuse	14,611,991	895	16,326	$21.92	$24,489
Industrial	10,927,458	369	37,468	$16.39	$44,421
Irrigation	4,136,024	5,404	846	$6.20	$1,148
Mining	149,751	159	1,068	$0.22	$1,413
Hydroelectric	11,167,361	25	748,782	na	na
Other	232,849	1,402	439	na	na
Total	44,293,587	8,676	812,199	$49.34	$5,687

* Assumes an annual fee of $1.50 per acre-foot of permitted water. "Other" primarily includes storage rights, recreation, domestic and livestock uses and recharge. Source: Based on data from the Texas Commission on Environmental Quality Water Rights Database 2006. "na" = not applicable.

Table 5: Potential Revenues Generated from a Tap Fee on Public Water Supply Connections in Texas ($millions)

	Estimated no. of connections	Projected no. of connections *			
	2007	2008	2009	2010	2011
Residential	7,233,497	7,371,074	7,440,840	7,511,267	7,582,361
Commercial	428,992	437,151	441,288	445,465	449,681
Irrigation	49,951	50,901	51,383	51,869	52,360
Industrial	21,719	21,966	22,091	22,216	22,342
Government, fire and other/unspecified	224,004	na	na	na	na
	Projected fee revenues ($millions)				
Total fee revenues	na	$95	$95	$96	$97

*Estimates assume a $1.00 monthly charge per connection. Government, fire and other institutional connections are assumed exempt. Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 6: Potential Revenues Generated from a Sales Tax on Bottled Water in Texas ($millions)

	Estimated historical sale revenues	Projected sales revenues ($millions)			
	2007	2008	2009	2010	2011
Bottled water sales	$1,191	$1,248	$1,364	$1,490	$1,628
	Projected tax revenues from bottled water sales ($millions)*				
State tax revenues (6.25% of taxable revenues)	na	$78	$85	$93	$102
Local tax revenues (1.80 % of taxable revenues)	na	$22	$25	$27	$29
Total tax revenues to state and local government	na	$100	$110	$120	$131

* Estimates for projected bottled water sales revenues were adjusted to reflect to the negative impact of a price increase due to sale tax on sales volumes.

Source: Based on TWDB analysis from the International Bottled Water Association and U.S. Beverage Marketing Association.

"na" = not applicable.

Private Sector Investment in Texas Water Infrastructure

By Chris Malinowski, PE and J. Paul Oxer, PE
PBS&J, Houston, TX

Introduction

There is an enormous demand for new water infrastructure in Texas – potable water storage reservoirs and treatment plants, transmission and distribution systems, wastewater collection systems, and treatment and reuse plants. As a result of the continued population growth into the foreseeable future, these demands will only increase as this predicted growth continues to escalate. Unfortunately, we've generally run out of the all clean, close, cheap water. Developing new sources and processes to meet these future water needs will be more complex and will simply cost more. To this we must add the costs to refurbish our existing municipal systems, some now nearing the limits of their design life, whose maintenance and upkeep was sometimes ignored for budgetary expedience or other political constraints.

The estimated capital requirements for this infrastructure are simply beyond the capacity of the State of Texas to supply it readily. State and federal financial resources are limited. State revolving funds are generally at their limits, and raising taxes is simply not in the political cards. Federal money will be acutely limited in the near-term as a result of the country's international commitments and its own budgetary constraints. All this forecasts a drought of public financing available for water infrastructure. Privatization and other public-private partnerships (P3) are ways to access the capital needed in the amounts that will be required, allowing certain projects to be undertaken that otherwise might not be funded and accelerating others.

Private finance through a P3 is financing raised by the private sector to deliver a public service such as water supply or wastewater treatment. The debt and equity obligations are met through revenues generated by the project activity with no recourse to the government beyond those specifically outlined in the financing and operating agreements. The cost of borrowing for such projects is a part of the total equation to bring the project to fruition to provide the service, just as are management, labor, and cost of expendables. When comparing and evaluating the efficacy of government financing versus private financing through a P3, we should first ask not "Which has the lowest cost to borrow money?" but rather "Which delivers the service better?" This is not to deny the lower cost of generally tax-free government borrowing, but rather to recognize that the cost of debt is only a part of the total cost to provide the service.

Types of Private Sector Participation

Private sector participation in water projects ranges from service contracts for operation and maintenance a single facility to full acquisition of an entire system.

By Contract Operations (CO&M) through private operators who provide specific services ranging from meter reading and repair to O&M of an entire collection, treatment and disposal system, municipal governments benefit from private sector operation and maintenance expertise while maintaining ownership of the individual asset. Service providers receive a fixed fee or a performance fee linked to operational improvements, and are unaffected by tariff changes or insufficiencies. In this regard, the private operator assumes little or no risk. Service and management contracts speak to the need for improved efficiency and service quality, especially when performance incentives are offered. These can be a valuable first step to build an understanding of private sector participation.

Design-Build (DB) projects accelerate the schedule to hasten the provision of improved or increased services, but have little to do with accessing private capital for long-term financing. These projects simply reduce the finger-pointing between designers and constructors regarding responsibility for performance capability of the completed plant. The principal question regarding DB projects is whether the finished product will meet the operational standards, e.g. for wastewater treatment. That's why the characteristics of the design and output of the plant are specified. In this case the municipal entity remains the owner (short-term and long-term), and essentially purchases a finished product that will be able to provide the service rather than engaging an engineer for design and a contractor for construction. The municipal entity is still responsible for financing the purchase of the asset and paying for it over time through billing and invoicing for services.

In a Build-Own-Operate (BOO) project, the private sponsor provides capital through combined equity and debt; provides the project operations and management expertise; and assumes the risk to provide the service, e.g. treatment of a certain range of wastewater volume of certain characteristics. This can be via a toll plant where the influent is metered at the plant and the municipality is the sole customer, limiting the payment risk. The municipality is responsible for billing and invoicing its customers for the service. These are often on a "take-or-pay" basis that guarantees a minimum base cash flow to support the long-term financing and reduce the costs of borrowing. Metering at the plant also provides an incentive to the municipal entity to maintain the sewage collection system to minimize the amount of infiltration and inflow (groundwater and rainwater) that seeps into the system as a result of poor maintenance. Unchecked this excess flow into the plant can overwhelm the plant's hydraulic capacity during wet weather, resulting in overflows and permit violations, just as they would if owned by the municipality. Ownership continues to reside with the private sector entity.

Build-Own-Operate-Transfer (BOOT) projects essentially do the same thing as a BOO project, but require the private operator to transfer the assets back to the municipal entity after a time required to retire the operator's debt and provide a return to equity investors. Both terms are usually specified within contract documents.

Both BOO and BOOT projects address the need for new services and treatment capabilities that require large amounts of capital financing. The initial period of construction before revenues begin to be generated exposes lenders and equity holders to greater political, regulatory, and credit risks. This provides an incentive to get the facility completed and into operation as quickly as possible to generate positive cash flow. Capital assets are held on the private sector entity's balance sheet; and the municipal entity can reserve for other projects the bonding capacity that would have been obligated for the plant.

Asset Acquisition of a full equity interest in an existing facility is the simplest and most extensive form of privatization of existing services. Asset sales provide the greatest potential for productivity gains because the private operator assumes all commercial and performance risks as well as the ongoing costs of capital improvements. The acquired infrastructure asset provides hard collateral that can be used to obtain long-term financing, often much longer than that for a municipal entity, which assists in reducing debt pricing. This can be an attractive option for a municipality that has decided to embrace infrastructure privatization and needs capital for other projects that do not lend themselves to such private sector involvement. In a sense the municipality simply takes out its equity in a specific plant to be used elsewhere. Asset valuation becomes the critical issue.

A Partial Acquisition makes a portion of the assets available to the private sector, typically through a stock sale of a quasi-government operating company. The municipality can offer less than a majority stake in the operating company, but through contract documents can grant managerial control to the private sector. Under this scenario, the private sector investor will operate and manage the company, but the municipality retains a management presence through board seats. The municipality retains ownership but not control.

With a Purchase / Lease-Back, the infrastructure asset is simply sold to a private sector entity and leased back to the municipality as a way for the municipality to reduce capital that is tied up. In this way, the municipality essentially maintains operational control but not ownership; the capital asset is held on the private entity's balance sheet. Private sector interests can provide much longer term financing, often much in excess of that available through tax-free municipal bond financing. However, the municipal entity is obliged to spend what is required to keep the facility operating to standards specified in the lease agreement.

Private Systems simply provide a municipal service such as drinking water or wastewater collection and treatment. These are essentially the same as a Build-Own-Operate project, but characteristically are offered in areas where the costs are excessive or uneconomical to extend municipal services from the main service area.

Other Aspects

Accountability improves with private investment. Too often, publicly funded infrastructure projects go over budget and take longer to complete than planned. This is often attributed to a lack of direct "ownership" by officials involved. Private finance imposes a level of market discipline to which the municipal official is not exposed. If the private sector investor/operator does not perform and deliver the project on-time and on-budget, the value of the investment deteriorates, taking with it the returns on the invested capital.

Debating in the abstract tends to be self-defeating because the devil – as well as the darling! – is in the details. To focus the debate, discussion should be centered on a specific project or series of projects.

Water infrastructure – water plants, pipes, pump stations and such – is hard to move, so it's not as though the private sector owner will be able to pack it up and take it away. What must be assured is that the level and quality of service is maintained, and the infrastructure is operated and maintained in a manner that does not allow abnormal deterioration. This is especially important in BOOT projects where the system will be returned to the municipality at the end of the contract term, as well as in Purchase – Lease-back projects where the condition of the asset, as maintained by the municipality, defines the balance sheet value to the private sector owner.

Private investment and operation does not mean that the government or municipal entity is disengaged from the service, but only that it moves into the pure oversight role to which it is uniquely suited, while the private sector takes over operation, often at greater efficiency and reduced cost.

Costs of Debt

Generally, a key issue raise regarding private finance is the cost of debt – why should private financing be pursued when governments can borrow more cheaply? If a government entity is going to finance the project, it will likely do so with traditional tax-exempt bond financing. There are, however, limits to how much leverage that can be achieved with this type of financing. Because it is 100% debt, it is priced very conservatively and tightly structured. Privatization offers the potential to bring equity into a transaction, which would not occur in a typical municipal bond financing. This has the effect of reducing the long-term cost of the debt, bringing it more in line with typical tax-exempt bond rates.

Privatization can also reduce annual amortization costs by offering a much long-term financing horizon. Where traditional tax-exempt municipal bonds are usually limited to 30 years, some private investments are structured over as much as 75 to 99 years. Private ownership of infrastructure also allows the owner to take the financial benefits of depreciation and other tax incentives that are simply unavailable under conventional tax-exempt municipal financing.

In these types of project financing, debt is repaid through usage fees and tolls specifically related to operating the infrastructure unit -- a water plant, for example -- so the fees should relate directly to the costs of operating that facility. Where a municipality can potentially draw additional monies from other sources to make up any insufficiency, essentially subsidizing the costs of providing the service, the private sector entity is obliged to set tariffs that cover costs of operation including debt repayment obligations, necessary maintenance, and reasonable profits. It is here that conflict generally arises. What most people take issue with in privatization is the profit that a private sector entity takes from the cash flow, often questioning its "fairness."

What should also be included in the discussion is the concept of "value" in the provision of the service. For a variety of reasons, including those mentioned in the Introduction, the costs to provide water and treat wastewater are escalating. Those costs will continue to escalate whether the private sector is engaged or not. The expectation is that they would rise less than if financed and managed by the public sector because of greater private sector operational efficiencies and management skill.

When taking infrastructure investments out of the public domain, it is critical to the success of any project that the mechanism and requirements for increasing tariffs be clearly defined and absolutely transparent. Contract management and regulatory oversight are essential to success.

This type of financing is generally new to the US and to individual states, and private operating companies who come in will often be from outside the US. Because of conditions and opportunities that exist in other countries such as France, Spain, Germany, and Australia, these operators have much greater experience in this type of investment. They tend to see themselves as internationalists often with investments in many locales, having learned how to evaluate the risks and rewards of any investment. Circumstances in the US – sanctity of contracts, rule of law, generally predictable regulatory regimes, low volatility economic climate, and stable government structure – simply provide another very high-quality, low-risk context for investment. For decades foreign governments have bought US Treasury bonds, and international companies have purchased real estate and corporate equity in this country.

Major Issues Affecting Use of Private Equity

Access to Tax-Exempt Debt; Private Activity Bonds

Under normal circumstances, companies using private equity will leverage their investment by mixing equity and long term debt. These companies will normally use taxable debt for their debt portion of the project. Local and state governments, on the other hand, can issue tax-exempt debt for the entirety of their project. This tax exempt debt is typically paid back over a period of 20 to 30 years at an interest rate lower than that for taxable debt.

Every state is allowed to authorize a certain amount of tax-exempt debt for private companies developing "public use" projects. These bonds, called private activity (or industrial development) bonds, are used for a wide variety of public housing, education, and environmental projects. The amount of private activity bonds available is calculated per Internal Revenue Code, Section 146.

In certain circumstances, tax-exempt debt can be accessed by the private sector in partnership with a municipal entity. Specifically, existing IRS Revenue Rule 63-20 allows for the formation of a public-private-partnership (P3) that would have access to tax-exempt debt. This type of partnership is known simply as a 63-20 corporation.

For this debt to be issued on a tax-exempt basis, IRS Revenue Rule 63-20 states that:

- The corporation must engage in activities which are essentially "public in nature."
- It must be not organized for profit.
- The corporate income must not inure to any private person.
- The State or political subdivision must have a "beneficial interest" in the corporation while the indebtedness remains outstanding.
- The corporation must be approved by the State or the political subdivision, which must also approve the specific obligations issued by the corporation.
- Unencumbered legal title in the finance facilities must vest in the government unit after bond indebtedness paid off.

These 63-20 corporations have been used extensively in the transportation sector, and have substantial application in water infrastructure. Typically, a project under this structure is designed, built and operated by the private sector with capital generated by tax-exempt bond financing issued by the 63-20 corporation. Municipal and private sector interests in management of the corporation are jointly represented through board seats on the P3. The P3 hires an executive officer who reports to the P3 board, and is responsible for construction of the infrastructure project and delivery of services under a contract to the municipality. When the bonds have been retired, ownership of the facility reverts fully to the municipality.

Design-Build Legislation

Many states allow the use of Design-Build contracts for municipal water and wastewater projects. Unfortunately, Texas is not one of them. The issue involves the conflict on how engineering services and construction services are traditionally awarded. In Texas, engineering contracts from local government entities must be awarded based on the qualifications of the engineering company. On the other hand, construction services must be based on price. Trying to blend the award of these two service types into one contract poses a problem.

There have been two examples of Design-Build contracts in the Texas water industry. The first was done for the Bexar Metropolitan Water District in San Antonio, the second for the Houston Area Water Corporation in Houston. Each used a not-for-profit (NFP) corporation to design, build and finance the project. They also are normally responsible for the operations and maintenance of the project. Each municipality in turn signed an agreement with the NFP committing to purchase a minimum amount of the water or wastewater services for a certain unit cost ("take-or-pay" contract).

In 1999, the Bexar Metropolitan Development Corporation (BMDC) in San Antonio, contracted with United Water for the first DBO of an ultra-filtration potable water treatment plant in the United States. The BMDC is an industrial development corporation formed by the Bexar Metropolitan Water District (BexarMet), which provides water to about 250,000 residents in the San Antonio area.

The sophisticated ultra-filtration technology used at BexarMet, formally known as "Crystal," was refined and developed by the French company Suez and offers several advantages. The innovative process requires less chlorine, takes up approximately one-quarter less space than traditional plants, and provides a physical barrier that removes solids, organics and pathogens and any other particulates from finished water. The facility's quick turnaround in construction and start-up provided a much-needed water source to the drought-stricken area.

Under the terms of the contract, United Water is responsible for all aspects of designing, building, managing and operating the new surface water structures, including the ultra-filtration treatment facility, raw water intake, raw water pipeline and pump station. BMDC owns all the facilities, provided financing for the construction project and constructed a six-mile pipeline to deliver drinking water to key distribution points on the west side of San Antonio.

The procurement and financing of the BexarMet ultra-filtration plant represented a new approach for this region. To maximize the economic benefits to the District by getting the plant constructed as quickly as possible, and to limit construction schedule constraints, a DBO method of procurement was deemed critical to meet the District's water needs. However, state regulations limited long-term procurements, forcing the City to identify alternate contracting methods. To meet this challenge, the Bexar Metropolitan Water District created the non-profit BexarMet Development Corporation (BMDC) as allowed

by the state. The State Attorney General issued a positive opinion on the formation of the BMDC, and opined as well that it could contract long-term with United Water.

Once financing was obtained by BMDC, the project was completed on time and on budget in only sixteen months, a full year sooner than generally would have been required for a conventional plant under more traditional procurement. Due to extensive pilot testing performed during the design phase of this project, equipment costs were also significantly lower than manufacturers' original estimates.

The contract between BMDC and United Water is part of a 10-year, $30-million dollar operations agreement with a 10-year renewal option. The 9 MGD ultra-filtration plant went on-line in December 1999.

This was the first time that tax-exempt project financing coupled with a DBO approach has been used in Texas, and through it a savings of $2 million was recognized over the original budget.

Testimony of

John Ma
Managing Director
Goldman, Sachs & Co.

to the

Texas Joint Committee on Water Funding
The Woodlands, Texas
July 9, 2008

Members of the committee,

My name is John Ma, and I am a Managing Director in Goldman Sachs' investment banking division, in our public sector and infrastructure group; based in New York City. Thank you for having me here today and providing this opportunity to address you.

Approximately two years ago, I spoke with this committee about the potential for public-private partnerships, or "P3", to help address some of the infrastructure challenges facing the State, including in the water sector.

Since then, we have seen a growing number of states in the US, including Texas, explore public-private partnerships as an innovative way to finance critical infrastructure projects. Today, I wanted to discuss some of the potential applications of public-private partnerships including their benefits and issues.

Over the last two years, P3's have been looked to by States and municipalities as a source of capital for an increasingly broad range of infrastructure assets including roads, bridges, maritime port infrastructure, municipal parking facilities, courthouses, airports and water utilities. P3's have perhaps been best known, and received the most attention for certain transactions where States or cities have monetized existing, revenue producing assets such as toll roads through a long-term concession, in exchange for large upfront payments. In 2006 for example, the State of Indiana entered into a 75 lease of the Indiana Toll Road with a private operator in

exchange for an upfront payment of over $3.8 billion, that went towards the funding of the State's 10 year transportation plan. This transaction allowed the State to effectively monetize the equity value it held in an existing toll road asset in order to reinvest in new transportation projects.

Yet these large toll road transactions, like the Indiana Toll Road deal, are only one variant of public-private partnerships. Private capital can be used to help finance infrastructure projects in a variety of ways, across a variety of asset classes, including municipal water utilities, and to build greenfield, or new capacity projects, in addition to monetizing value from existing assets.

PPPs for the Water Sector?

In the US water sector, simple forms of partnerships with the private sector have existed for many years. For example, some municipalities contract with private operators to run aspects of the day-to-day operations of their water and wastewater systems for a fixed fee. However the responsibility for capital investments, such as replacing aging distribution networks and pumping equipment, remains with the municipality. In another example, new plants and facilities are often built through fixed price design-build contracts with private contractors. Other broader partnerships exist involving longer term Operations & Maintenance contracts. In these contracts, private operators manage almost all day to day aspects of a municipal water system. Through incentive clauses in their contracts, the private operator might share in some of the rewards and bear some of the risks of operating the water system; however, again, many of the more significant capital investment decisions remain with the municipality such as whether to invest in a new water treatment plant.

Finally, the PPP market has begun looking at even more comprehensive models whereby a private investor/operator would be responsible for not only the operations and maintenance of a system or facility, but significant aspects of the longer-term capital spending plan as well. Given the enormous amount of capital investment required to update, upgrade and maintain current water infrastructure, these more comprehensive public-private partnerships are getting increasing focus as an alternative. For example, the City of Akron, Ohio recently announced that it planned to explore a long-term concession of its entire wastewater system for which it hoped to receive a significant upfront payment. In other parts of the country, States have looked to private capital and private operators to finance the construction and operation of new plants, including expensive new desalinization plants.

Overall, the huge dollars required to upgrade the nation's water and wastewater infrastructure are demanding the consideration of alternative means of financing. The US Government Accounting Office (GAO) estimates that $400 billion to $1.2 trillion will be needed nationally over the next 20 years alone for water infrastructure projects. Given these huge needs, public-private partnerships, while not a silver bullet and not the answer to all of the State's water infrastructure needs, may offer an alternative financing solution.

Potential Benefits

The benefits for State and municipal governments are several. First, and perhaps foremost, public-private partnerships can transfer significant operating risks to the private sector. In any complex infrastructure project, there are numerous risks associated with construction and operations. On the construction side there is the potential for costly over-runs or design changes. On the operations side, complex systems such as a municipal water utility or a

desalinization plant, require expertise and know-how to maintain safety and quality standards. These systems also require ongoing investment in equipment and technology.

In the water sector, other specific risks include the rate of usage and customer growth which impact annual revenues. On the operating expense side, there is the additional challenge of maintaining qualified staff and managing operating expenses including electricity and chemicals for the treatment of water. The water sector is highly regulated by the EPA, which creates additional responsibilities and burdens.

Public-private partnerships have been broadly used as a tool in other infrastructure projects to help transfer many of these types of operating risks away from the public sector to the private operator. With a well-crafted transaction, the public sector retains oversight over these projects while the private operator has responsibility for meeting strict standards outlined in the agreements. For example, for a water or wastewater utility, a concession agreement can be drafted to help ensure adherence to detailed environmental and health and safety compliance standards.

Finally, one can not talk about the potential benefits of public-private partnerships without mentioning the dollars. The fact is that, given the size of the needs for infrastructure investment, private equity capital offers a new source of capital, different from traditional tax-exempt municipal bonds which we have relied on for many years to finance our infrastructure investments. As many of you here have seen and appreciate, there is extremely strong demand among investors for infrastructure assets given their long-term nature, the essential nature of the services, and stable cash flow characteristics. Billions of dollars have been raised and committed among infrastructure funds and pension funds to invest in infrastructure projects around the world. While infrastructure equity capital is certainly not a replacement for the deep

and liquid municipal, tax-exempt markets, this source of equity capital can be tapped to help finance at least part of the needs of the State.

Issues for Consideration

Despite these important potential benefits, public-private partnerships are not without their challenges, and they certainly are not a one-size-fits all solution to the infrastructure needs of the State or the Nation.

First, any contract needs to be carefully designed so that there is appropriate allocation of risks. I have already mentioned how one of the key benefits of public-private partnerships is the ability of the private sector to bear some of the key risks involved with an infrastructure asset such as a water system. Yet there are some risks which private operators have little or no control over, relative to the government, such as future changes in laws or regulations. P3 contracts need to anticipate a very long-term arrangement where future requirements, future regulations, and future technology may change. These types of issues are particularly challenging for technically complex and highly regulated assets such as water utilities. Overall there also needs to be a thoughtful allocation of risks in these agreements, and they need to be carefully reviewed.

Policy makers need to define clear principles and parameters at the outset to help guide these processes. Any legislation needs to allow for flexibility in individual agreements, since each situation and each infrastructure project can be unique, but there are certain principles and guidelines that policy makers can set out to help guide how these agreements are drafted.

Second, in order to attract capital to infrastructure projects, there needs to be clear and open processes for selecting and negotiating with a private partner. Unfortunately, in the P3 space,

several processes for soliciting private capital into these types of deals have been clouded by uncertainties related to the process. These questions have included whether legislative and regulatory approvals are in place and whether there is a really a commitment on the part of the government entity to enter into a deal. These processes require a real commitment of time, money, and resources on the part of the private sector. Prior to entering into a process, investors want to know that the conditions for a successful project are in place, including threshold regulatory approvals and clear definitions of what the project is, what the end objective of the State or municipality is, and what the process will be. They truly think of these transactions as long-term partnerships. And they want to enter into transactions will a high likelihood for a successful long-term partnership.

Finally, I'd like to spend a moment and make a distinction with respect to investors and the private capital that would pursue an infrastructure investment. It is important to realize that investors need to be repaid their money. This rule applies whether they are traditional municipal debt investors, or private equity investors. This may be stating the obvious. But my point is to highlight the important distinction between financing and funding.... While municipal bonds or infrastructure private equity are both financing alternatives, (ways to raise upfront capital to get a project built) any financing will require funding streams – revenue streams - to repay the money. These funding streams can include taxes, user fees, development charges, connection fees, grants, or general revenues. At the end of the day, people will need to continue to receive water bills, utility bills and pay their taxes. I mention this because water is commonly referred to as the "lowest cost utility" for the average American household, consuming less than 1% of household income. Yet, given the huge need for reinvestment in our water infrastructure, this low cost situation may not stay constant. This is probably the most challenging reality facing any infrastructure project which is "who will pay for it." Public-private partnerships are just a vehicle for financing infrastructure projects. P3s may be able to deliver projects for less money

and more quickly…yet they ultimately need some revenue stream, some funding source, to provide a return on the investment.

Conclusion – Are PPPs the Future of Infrastructure Finance?

In conclusion, the need for alternatives to repair and replenish the nation's infrastructure has given rise to the increased consideration of public private partnerships in the United States today. There are pools of private capital that are available for this very purpose. Public-private partnerships can be truly mutually beneficial – municipalities are able to deliver projects faster and cheaper, or monetize existing assets for upfront dollars.

As budgets become increasingly constrained and our infrastructure needs continue to grow, it is likely that PPPs will become a prominent fixture in the infrastructure finance landscape. The growth in the PPP market in the past year has been strong and there is every reason to believe that it will continue in the future. Although a PPP may not be appropriate for every project or municipality, it provides a valuable alternative to the current financing options that are available.

CH2MHILL

Joint Committee on State Water Funding
July 9, 2008, 10:00 a.m.
Lone Star College System Training and Development Center, Room 102
The Woodlands, Texas

Testimony

Presented by

Susan Butler, CH2M HILL

Good morning, Mr. Chairman and Members of the Joint Committee. Thank you for the opportunity to discuss this critical issue facing the State of Texas.

My name is Susan Butler, Water Resources and Environmental Management lead for Texas and Oklahoma for CH2M HILL. Headquartered in Denver, Colorado, employee-owned CH2M HILL is a global leader in environmental consulting, engineering, construction, and operations for public and private sector clients. With $4.5 billion in revenue, CH2M HILL is an industry leader whose work is concentrated in the areas of water, energy, environment, communications, construction, transportation, and industrial facilities. CH2M HILL has more than 24,000 employees in regional offices around the world and nearly 600 serving within Texas. We are pleased to have been invited to discuss the important issue of funding implementation of the State Water Plan and public-private partnerships.

GENERAL COMMENTS

The Committee is to be commended for addressing such a critical issue of statewide importance. The State Water Plan identifies approximately $139 billion in water delivery, water supply and wastewater system needs in Texas by 2060. Approximately $22 billion will be needed by 2020 to replace aging infrastructure and expand system capacity to meet the needs of a growing population.

The combined efforts of local, State, and federal government as well as the private sector will be required to meet these needs both in the near and long-term. In recent years, much has been accomplished to advance funding opportunities for critical projects. Congress authorized federal investment in infrastructure through its passage of the Water Resource Development Act. The Texas legislature also recognized the role of the State in investing in critical infrastructure needs through its appropriations last session. These are important steps; however, continued investment and collaboration among all levels of government and the private sector will be required to secure the water future for the State of Texas.

There are many ways that the private and public sectors can, and do, partner to design, construct and operate water and wastewater projects. Partnerships range from collaboration between engineers and their clients to creatively design and construct projects that efficiently use limited capital funds and reduce operating costs to direct private sector funding of infrastructure projects. Another form of public-private partnership involves state funding for data collection and analysis tools such as water availability modes used to

support design of water and wastewater projects for water suppliers, industries and businesses.

PROJECT DELIVERY METHODS

During the last legislative session, the Legislature authorized local public entities to use a variety of methods to procure and manage project design and construction. These methods create opportunities for creative design and construction approaches that save time and stretch limited budgets.

The methods include "design-build", among others. Design-build project delivery allows entities to issue a single contract for project design and construction, rather than first award a design contract and then award a construction award. This approach can now be used for a wide variety of public works facilities including water and wastewater plants, conveyance systems, desalination, water quality projects and other projects. Long used by the federal government and private industry, design-build now can be used by large municipalities, counties, river authorities, defense base development authorities, a municipally owned utility with a separate governing board, or special districts as an alternative to the more traditional design-bid-build approach. While design-build does not necessarily always result in reduced capital cost for new facilities, it can significantly improve design and construction schedules; thus, reducing the cost of interest accrued and paid during construction. More importantly, however, design-build can foster innovation that reduces life cycle costs, reduces energy consumption and increases long-term sustainability. Additional methods of procuring design services such as Construction Management at Risk also have the potential to reduce costs and reduce "time to market" project development.

The Texas Water Development Board and Texas Commission on Environmental Quality are taking steps now to learn about these methods and to review their processes related to plan and permit reviews and release of loan funding. Streamlining these reviews and building in flexibility will ensure that the benefits for using these methods are not lost through administrative review processes.

We would encourage the Legislature to support these agencies as they seek to improve their processes and promulgate rules necessary to increase efficiency. Further, while there is considerable latitude to make such improvement with state funds and review processes, flexibility for administrating federal funds (i.e., State Revolving Funds) may be limited due to federal administrative constraints. We would encourage the state to work with federal funding agencies to make sure that procedural requirements do not impede use of these alternative delivery methods while still providing accountability for public funds.

PUBLIC-PRIVATE PARTNERSHIPS

CH2M HILL has historically not invested significant capital in project development; however, we generally support those policies that encourage private funding of infrastructure projects when appropriate protections for the public and for local entities are

in place either through statutory or contract frameworks. Many successful projects have been built around the country through public-private partnerships.

We have also seen the benefits of private activity bonds, tax credit bonds (i.e., Clean Renewable Water Supply Bonds) and other instruments that can be used to raise capital for infrastructure projects. Such financial tools that encourage private sector investment to develop critical water projects will be increasingly important as we move forward to implement the State Water Plan. We would encourage the state to support federal legislation that creates such investment mechanisms or removes the cap on issuance of such bonds.

PUBLICLY FUNDED TOOLS AND DATA SOURCES

One of the often overlooked aspects of public-private collaborations is state funding for data collection and analysis tools such as water availability modes used to support design of water and wastewater projects for water suppliers, industries and businesses.

For example, the groundwater availability models and surface water availability models developed by Texas Water Development Board and Texas Commission on Environmental Quality, respectively, are critically important for industries and other private sector interests for ensuring the viability of their facilities. These tools are used to verify water availability and demonstrate to their financial investors that the facilities have secure water supplies and can operate over the long-term. Similarly, biological data collected by Texas Parks and Wildlife Department and the Texas Water Development Board are very important for private sector industries and local governments that may need to assess potential biological or ecological impacts of projects for permitting processes.

Further, data collected by federal agencies such as US Geologic Survey, US Environmental Protection Agency and National Marine Fisheries Service are critical to the private sector and to local and regional governments. We would encourage the legislature to continue to support these data collection and tool development efforts at the state level. We further encourage the State to continue to work with federal agencies and Congress to secure continued support and efficiencies with respect to collecting these data and developing models that can be used at the local level.

OTHER APPROACHES TO CONSIDER

While not specifically public-private partnerships, there may be other approaches that could stretch limited funding resources. For example, authorizing regional planning groups to move beyond high level conceptual planning and conduct data collection or studies that support permitting and project implementation could be considered. Such studies could be shared by local water providers and potentially expedite project implementation; thus, reducing overall costs for implementation of the State Water Plan.

Additionally, creating incentives and funding mechanisms that facilitate integrated water resources management and collaborative problem solving could be developed. For example, a "State Water Sustainability Fund" could be created that would provide funding for projects that use innovative designs or technologies to reduce energy or water consumption, reduce chemicals used during treatment processes or improve water quality.

Similarly projects that improve water quality within the watershed. We often work with water and wastewater providers that forego innovative technologies such as membranes, systems to capture methane gas to meet on-site power needs, or constructed wetlands to improve water quality and create habitat. In many cases, our clients see the long-term financial benefits but forego these innovations because the initial capital investment would be higher than conventional design. In the long-run, these technologies and project approaches can often reduce operational costs over the life of the project, thus, freeing up funds for infrastructure investments. Perhaps a fund similar in concept to the State Participation Fund could be developed whereby the state could provide initial funding for the incremental capital costs of these innovative sustainable projects. Methods for determining the expected operational savings could be developed whereby the local entities would retain a portion of the savings and replenish the fund with the remaining portion of the annual operational savings. Criteria for allocating the funds could also encourage entities to consider approaches that protect water quality in the project's watershed so that water and wastewater treatment costs could be reduced.

Other incentives could be developed that encourage energy providers and other industries to partner with cities and river authorities to oversize water supply facilities to meet not only their own needs but also provide water supply for other public uses. Such incentives could also promote co-location of electric generating plants and water treatment facilities that take advantage of the waste heat.

Another approach to encourage investment in water supply projects would include refining Chapter 36 of the Water Code to provide clear guidance regarding calculation of recharge credits if land owners or public agencies invest in land management projects that would increase aquifer recharge. Currently, some entities and landowners hesitate to invest in projects that would increase groundwater recharge without clear methods of ensuring that withdrawal permits would be issued and available for use or lease to others. Creating some certainty and consistency across the state could encourage such recharge projects.

SUMMARY

In closing, there is no one approach to secure funding to replace aging infrastructure and meet the needs of a growing population. Federal, state and local governments working with the private sector is required address these needs.

In general, policies that support private investment where it makes sense and those that remove procedural impediments to creative project design and construction methods are needed. The legislature can direct State agencies to review and revise their procedures and to work with federal agencies on their procedures.

We encourage the legislature to appropriate funding to the Texas Water Development Board, Texas Commission on Environmental Quality and Texas Parks and Wildlife Department for priority data collection, data management and model development. Funding should also provide for continued research into innovative technologies and water supply options and implementation-level studies during the regional planning process.

We encourage the funding mechanisms and policy frameworks that provide certainty for local entities or private sector interests to invest in water projects. We also support those mechanisms that provide incentives for integrated water management approaches that use innovative technologies and approaches to increase sustainability.

Mr. Chairman and Members of the Committee, we appreciate the leadership role of this committee to address the challenges of funding these critically needed water and wastewater projects. We look forward to working with you and your staffs to provide information as you consider these issues.

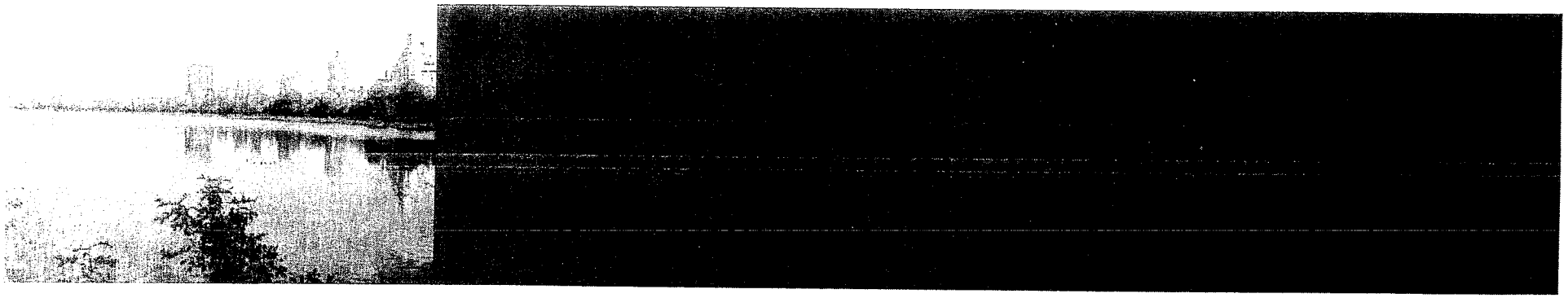
Thank you for the opportunity to speak before the Committee. I am available for any questions you may have.

Presentation to the

Texas Joint Committee on State Water Funding

Michael Deane
Associate Assistant Administrator
U.S. EPA, Office of Water

July 9, 2008



The First Wave: 1970s

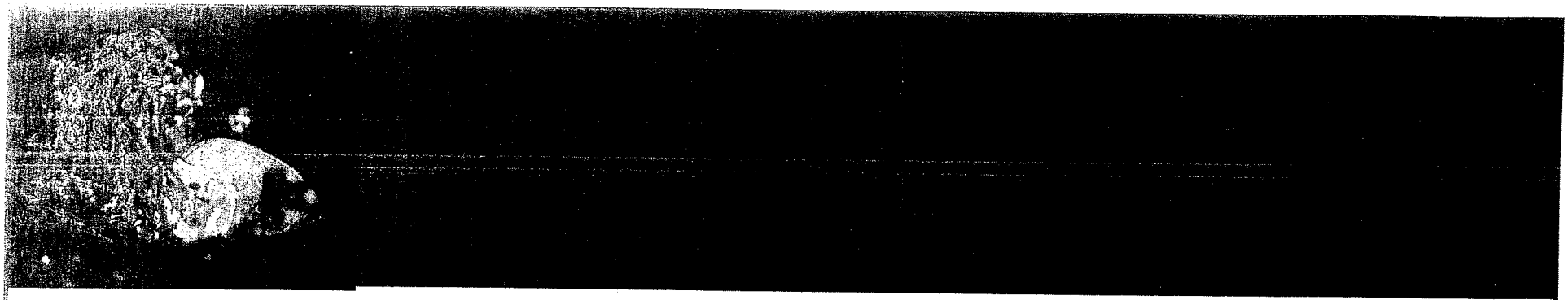
The historic Clean Water Act was passed in response to the environmental and public health crisis caused by the degradation of America's waters

The Second Wave: SRFs

The Clean Water and Drinking Water State Revolving Funds leverage the federal investment to provide sustainable funding for water and wastewater infrastructure

The Third Wave: Today

An upsurge in new ideas about innovation, technology, sustainability and private sector participation is currently taking place

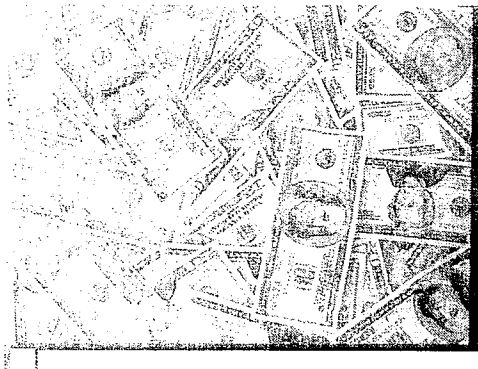


Public sources provide majority of spending.

- Congressional Budget Office estimated $82.3 billion in public spending for capital and O&M in 2004
  - Federal share: 3% of total ($2.8 billion in capital spending)
  - State and local share: 97% of total ($79.5 in capital and O&M spending)

Private sources are growing.

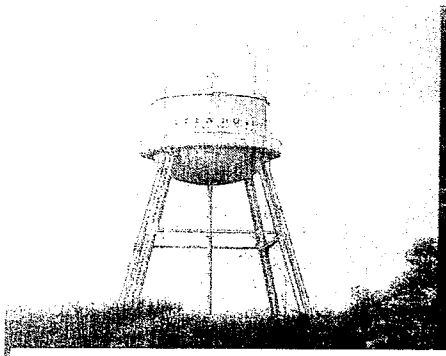
- EPA data show that privately-owned utilities account for:
  - 50% of drinking water systems
  - 16% of large water systems (serving ≥ 100,000 people)
  - 20% of wastewater systems
    - Most are small systems serving <10,000 people, such as mobile home parks.
- Public-Private Partnerships
  - Public-private partnerships planned and funded $13.6 billion in U.S. water projects between 1985 and 2006.



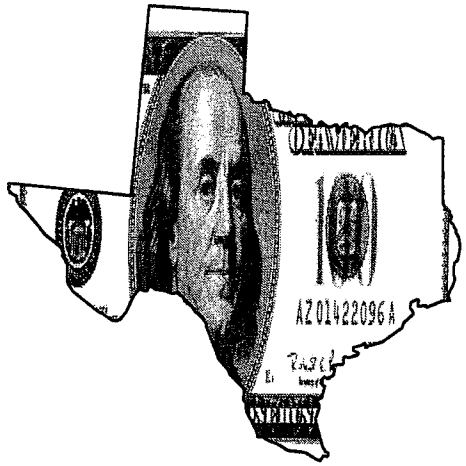
Assistance Provided for Water and Wastewater Infrastructure ($ Billions)		
	1991-2005	2006
EPA	$66.41	$6.81
Clean Water State Revolving Fund	$51.06	$5.02
Drinking Water State Revolving Fund	$9.34	$1.66
Earmarks	$6.01	$0.12
USDA Rural Development	$18.77	$1.36
Water/Wastewater Loans	$11.64	$1.01
Water/Wastewater Grants	$7.12	$0.36
Community Development Block Grants (HUD)	$6.73	$0.45
Economic Development Administration (DOC)	$1.06*	$0.16
Total Assistance Provided	$92.98	$8.77

**Incomplete EDA data cover 1991-2000*

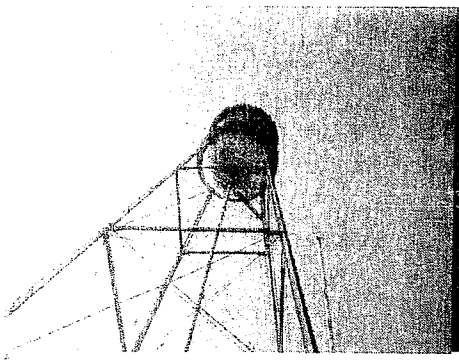
Sources: GAO (2002), Agency data



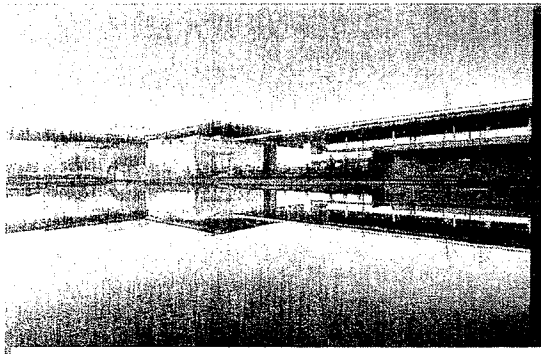
- **$4 billion in 473 loans, total from 1989 through 2007**
  - 58% to conveyance; 42% to treatment of wastewater
- **$245 million in 19 loans, in 2007 alone**
- **Leverages the federal investment by factor of 3.3 times**
- **Of $4.3 billion in total funds through 2007:**
  - Federal capitalization grants: $1.3 billion
  - State match contributions: $262 million
  - Bonds: $1.6 billion
  - Loan principal repayments: $1.1 billion
  - Interest earnings: $162 million



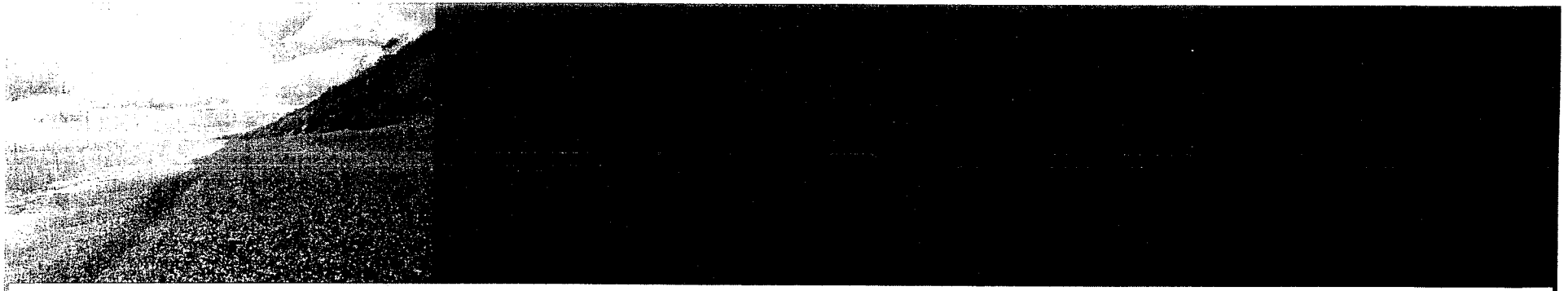
- **Low-cost loans averaging 2.8% interest rate in 2007 save communities money (market average 4.3%)**



- **$400 million in 84 loans, total from 2000 through 2007**
  - 50% to treatment; 37% to transmission & distribution
- **$92 million in 16 loans, in 2007 alone**
- **Leverages the federal investment by factor of 3.3 times**
- **Of $698 million in total funds through 2007, resources include:**
  - Federal capitalization grants: $618 million
  - State match contributions: $123 million
  - Loan principal repayments: $40 million
  - Interest earnings: $16 million
- **Low-cost loans averaging 2.1% interest rate in 2007 save communities money**

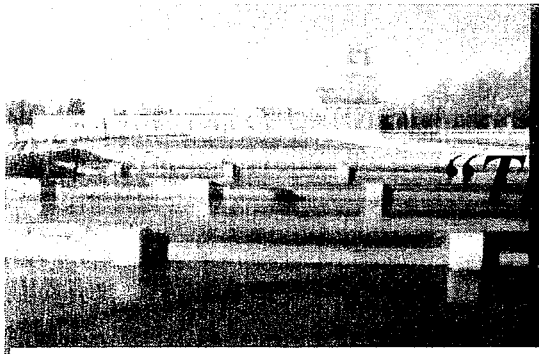


- **Large Capital Needs**
- **$202.5 billion in clean water needs over 20 years**
  - $276.8 billion in drinking water needs over 20 years
- **Projected Funding Gap for Drinking Water/Wastewater Capital and O&M**
  - EPA estimates a $145 - $1,168 billion shortfall over 20 years
- **Population Growth and Change**
  - Demographic shifts have increased per-capita replacement costs in older cities
  - Water shortages expected in 36 states by 2013
- **Aging Infrastructure**
  - One-third of utilities have 20% of pipes near the end of useful life
  - One-tenth of utilities have 50% of pipes near the end of useful life

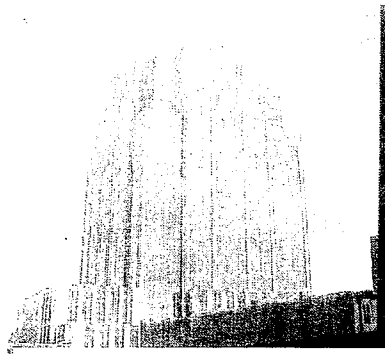


- **Construction Inflation**
  - Materials prices rose 30% from 2003-2008,

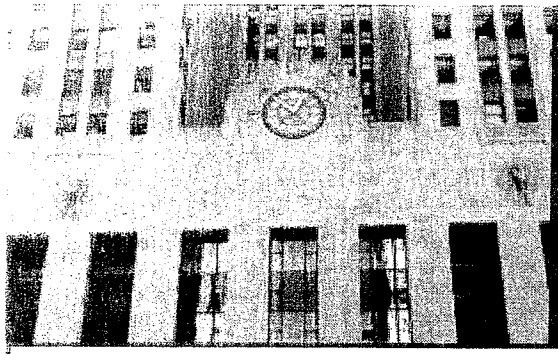
    15 percentage points faster than the Consumer Price Indexes
- **Declining Federal Assistance**
  - 98% decline in clean water funding from 1976 to 2008, in today's dollars
- **Inadequate Revenue**
  - Ratio of user rate revenues to expenditures was 0.89:1 for wastewater and 0.81:1 for drinking water in 2004-2005



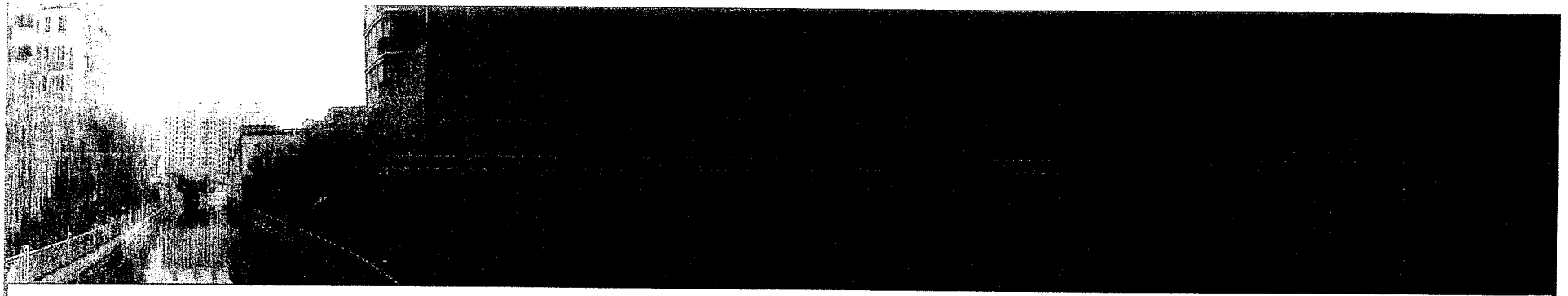
- **In the current context of constrained federal resources and competing priorities, EPA's "third wave" seeks innovations and practices that provide water infrastructure more efficiently.**
  - Green infrastructure
  - Effective utility management
  - Water program strategic planning and management
  - Watershed-based priority setting
  - Equitable and sustainable revenues
  - Water reuse and conservation
  - Innovative financing
  - **Public-Private Partnerships**



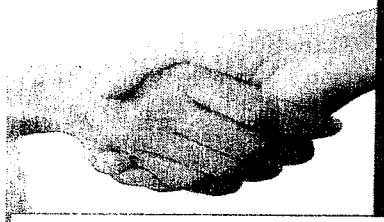
- **P3 Defined-** a contractual relationship between government and a private sector entity that results in sharing duties, risks, and rewards of providing a service in which the government has an interest…and retains ultimate responsibility for insuring that social needs and objectives are met.
- **Broader Context of P3**
  - Today, about 15% of water services are private (clean & drinking water).
  - In 2007, O&M contracts covered about 1,800 facilities, generating approximately $1.5B in revenue.
  - High contract renewal rates indicate positive experiences with P^3.



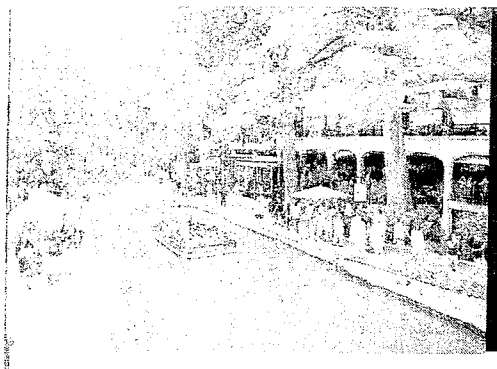
- Should be community-driven
- Community should be free to choose without federal impediments
- And, we are eager to help give state and local officials the information they need to make choices
- Innovative Public-Private Partnership options can leverage private sector capital and extend the purchasing power of local government resources.



- **Private Capital Can:**
  - Help meet the investment needs of systems -- repairs, upgrades, and expansions of new and existing water treatment plants
  - Allow utilities to perform unscheduled repairs more expeditiously
  - More easily be leveraged (greater borrowing capacity)
- **P3s Can:**
  - Introduce greater efficiency in O&M of systems, for example through labor, chemical, and energy use reductions.
  - Reduce the need for local government to use public funds for water services
  - Introduce sophisticated administrative and operational expertise
  - Help achieve full cost pricing
  - Improve customer service and employee relations
  - Facilitate equitable cost and profit sharing in exchange for the transfer of asset management risk away from public sector

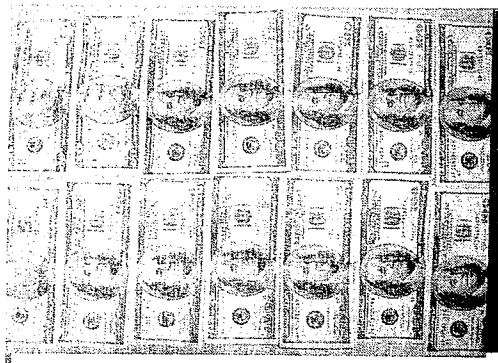


- **Executive Order 12803 (1992)**
  - Directs federal regulatory agencies to streamline privatization approval processes to facilitate injection of private capital into public works through competitive bidding
- **Executive Order 12893 (1994)**
  - Lays out the principles/procedures for federal infrastructure investment. Process should be systematized to quantify and qualify all anticipated costs and benefits
- **EPA Revised Privatization Guidance for Implementing EO 12803**
  - Simplifies the review process and application requirements for privatization proposals
  - Contract operations w/concession fee agreements would no longer be subject to EPA review
  - Draft guidance is currently undergoing Agency review.
- **Private Activity Bond Reform**



- **PABs are bonds issued by state or local government agencies to finance projects with private business involvement.**
  - Bonds are classified as PABs if more than 10% of proceeds are for private use and are payable or secured from private sources.
- **PABs must be used to carry out government-type functions and must serve a public purpose.**
- **PABs are tax-exempt if they meet the requirements of governmental bonds and used for "qualified uses."**
  - Qualified uses are defined by the Tax Reform Act of 1986.
- **Tax-exempt PABs are called "qualified PABs" and can be used to fund "exempt facilities," including water and wastewater facilities.**
  - They can also fund housing, healthcare facilities and industrial development.

- **The major restriction on PABs is an annual unified state volume cap.**
  - In 2007, the cap was $85 per resident or $256.2 million, if greater.
  - Cap is indexed for inflation.
- **In many states, particularly high-growth states, the cap is oversubscribed.**
- **Historically, water infrastructure facilities have seldom received a cap allocation and subsequently have benefited very little from the use of PABs.**
  - From 1986 to 2005, only one percent of bonds issued for drinking water and wastewater projects were PABs.



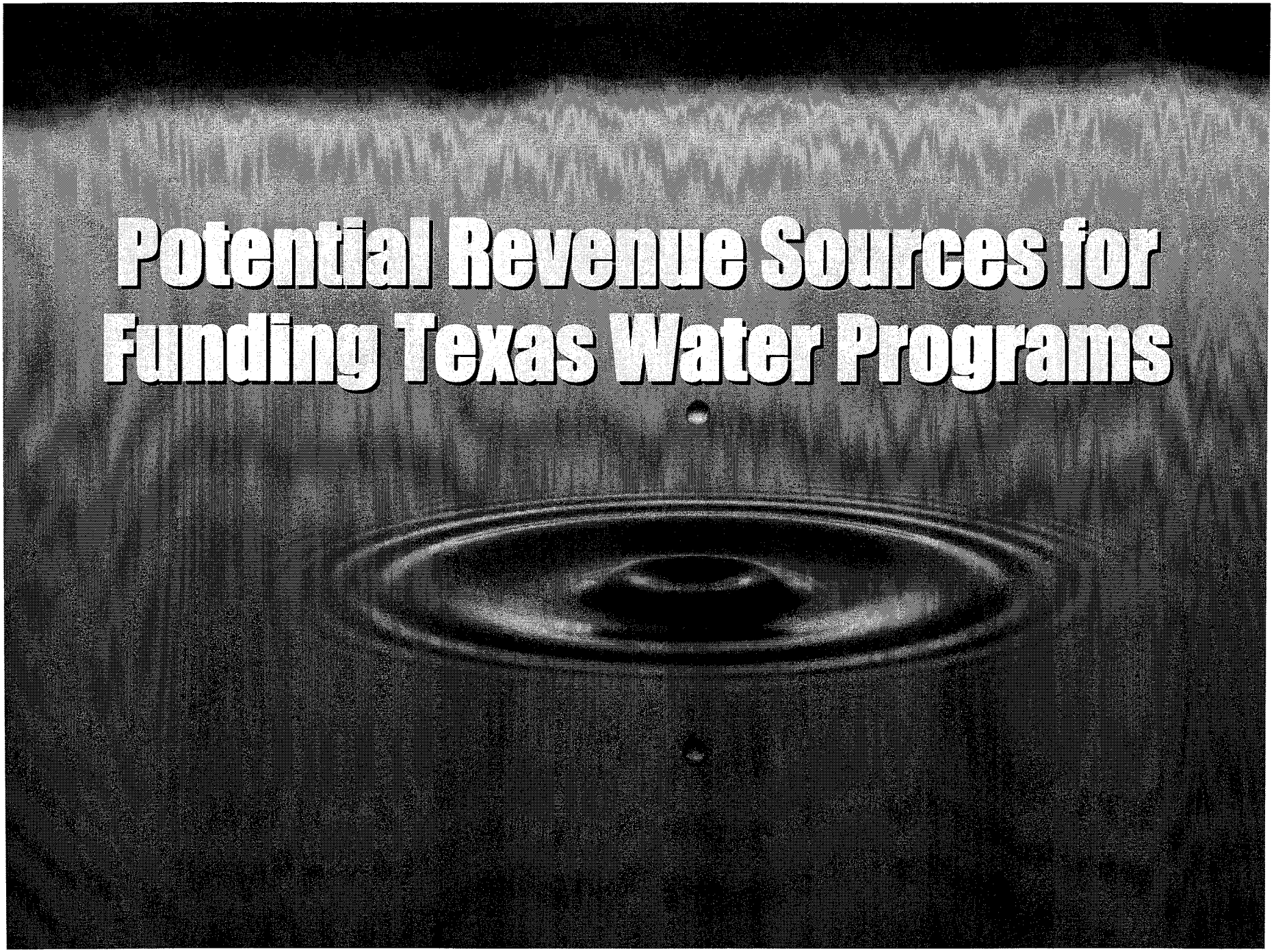
- **WEBs are qualified private activity bonds used for public-purpose wastewater and drinking water facilities.**
  - EPA has worked with U.S. Department of the Treasury and other parts of the Administration to propose expanded use of WEBs for capital investment in public-purpose water infrastructure.
  - The proposal, in Treasury's portion of the President's budget, is to amend the Internal Revenue Code to exempt WEBs from the state volume cap.
  - EPA is working with Treasury and Congress to move legislation forward to enact this proposal into law.
    - Currently HR 6194 is in the first step of the legislative process.

- Accelerate and increase investment in nation's water infrastructure
- Facilitate increased use of infrastructure delivery methods that support sustainable water systems through P3
- Greater implementation of full-cost pricing reflecting the true value of water services
- Engender competition for most efficient mix of technology, design, management and financing to achieve specified service delivery outcome
- Better risk management through appropriate risk allocation between public and private sectors and aligning risk and reward
- Permit private equity as additional source of capital for water projects
- Provide an additional $1-$2 billion in water investment annually for the first few years, potentially increasing to $5-$6 billion annually

*"Moreover, **investment bankers say that plenty of capital is available for work that is critical to the nation's well-being. What may be missing, however, is the political will to spend this capital. Increasingly, legislators and local governments are trying to arrange infrastructure financing in ways that conceal the true costs from taxpayers, who are reluctant to foot the bill, and that may transfer the financial burdens to future generations. If the measure of a society's responsibility is its willingness to invest for the long run, then the crisis in infrastructure is this: Do Americans possess the national will to pay for what their children and their children's children are going to need?"***

--excerpted from "The *Real* Infrastructure Crisis," *National Journal Magazine*, 7/5/08

Appendix R


Potential Revenue Sources for
Funding Texas Water Programs

Revenue Sources Evaluated

- Sales Tax on Retail Sales of Utility Water and Sewer
- Water Conservation and Development Fee
- Water Rights Fee
- Tap Fee on Public Water Supply Connections
- Sales Tax on Bottled Water

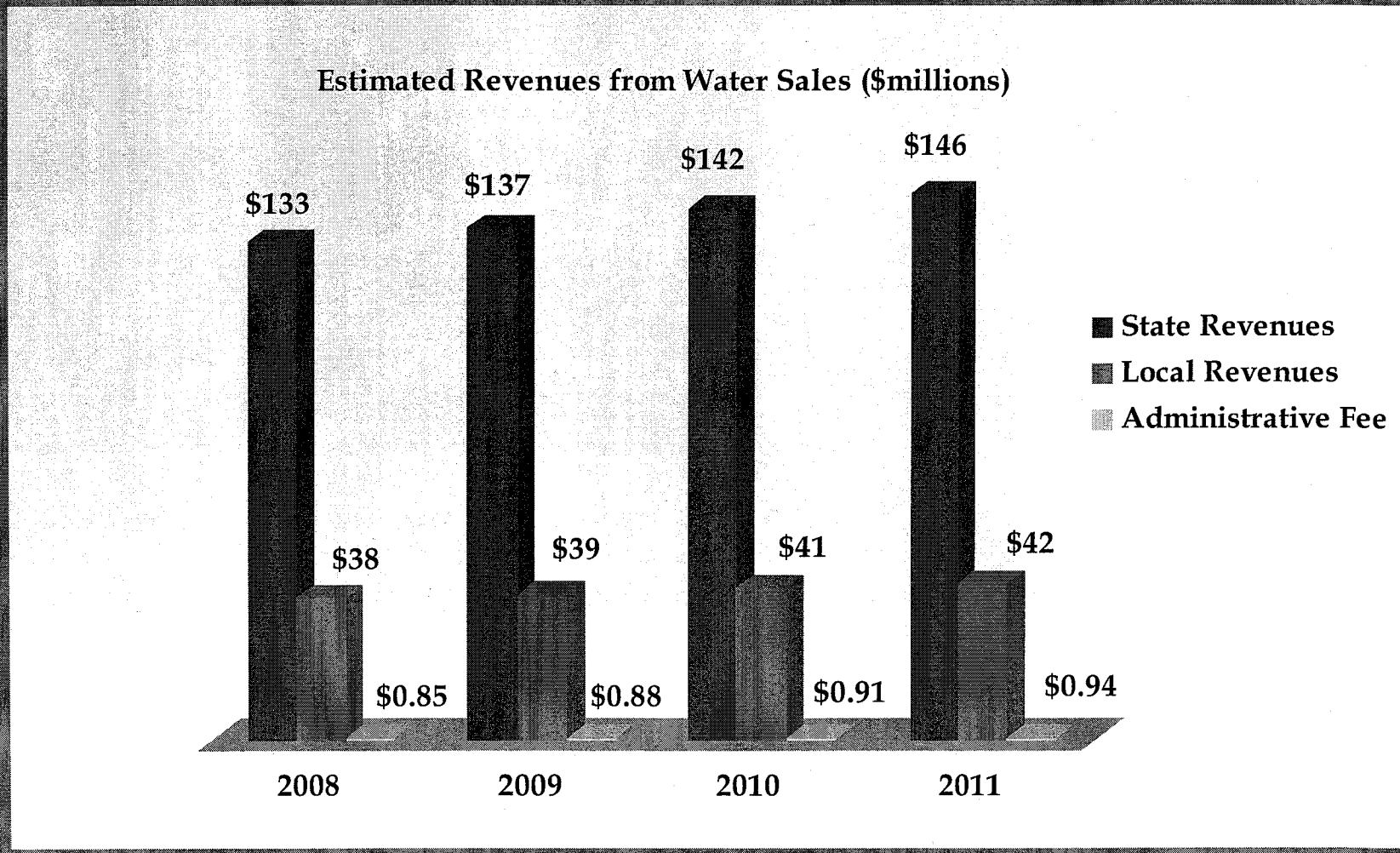
Sales Tax on Retail Sales of Utility Water and Sewer

- Applies state (6.25%) and local (1.8%) sales tax to sales of water and sewer service
- Taxes would be collected from residential and commercial water consumers
- 0.5% of collected revenues returned to utilities to cover administrative costs of collecting and processing tax revenues

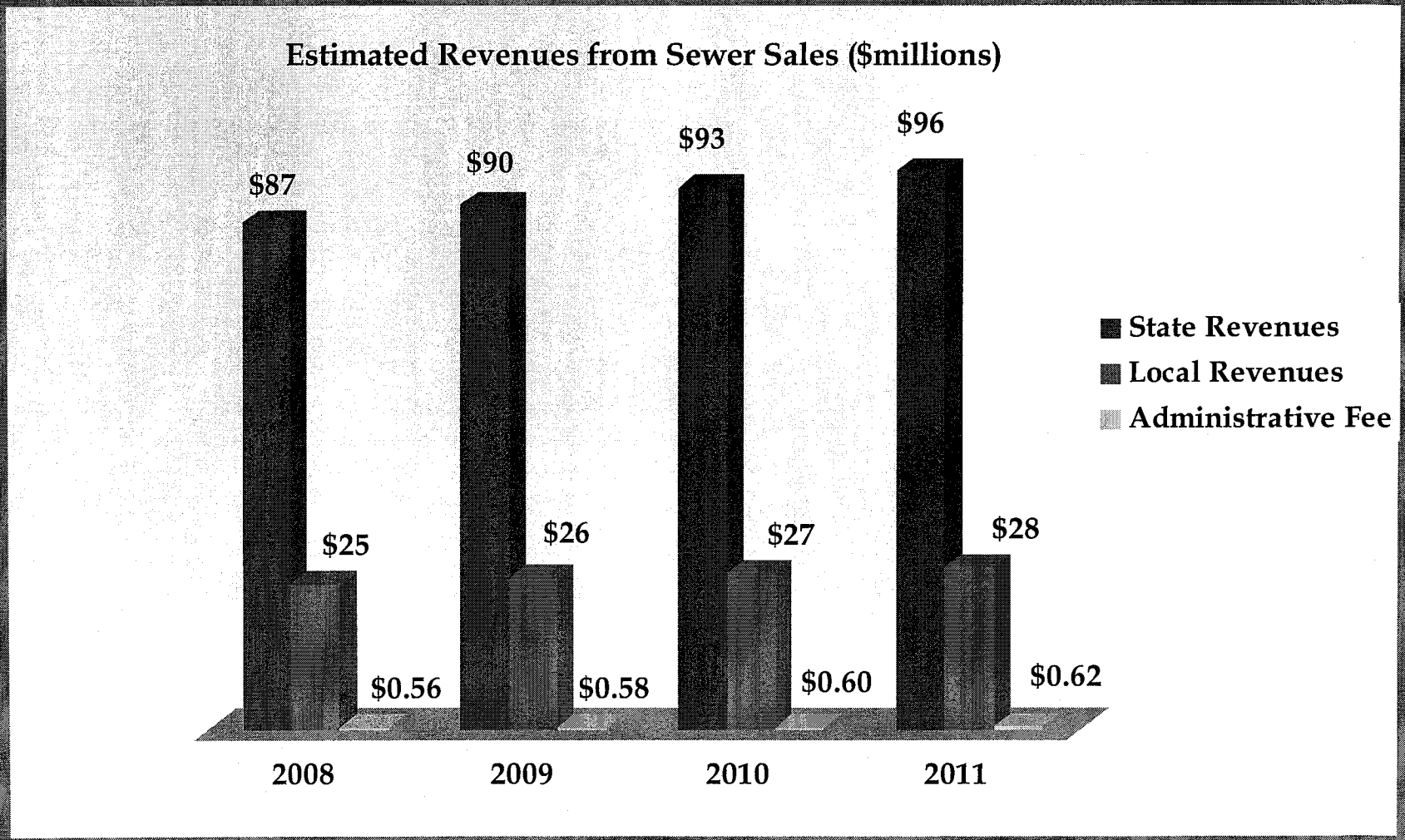
Sales Tax on Retail Sales of Utility Water and Sewer

- Exemptions
  - First 5,000 gallons of monthly residential water use
  - Industrial customers
  - Government and institutional customers
  - Religious, educational, charitable organizations, chambers of commerce, convention and tourist promotional agencies and any non-profit organization including hospitals providing charity care

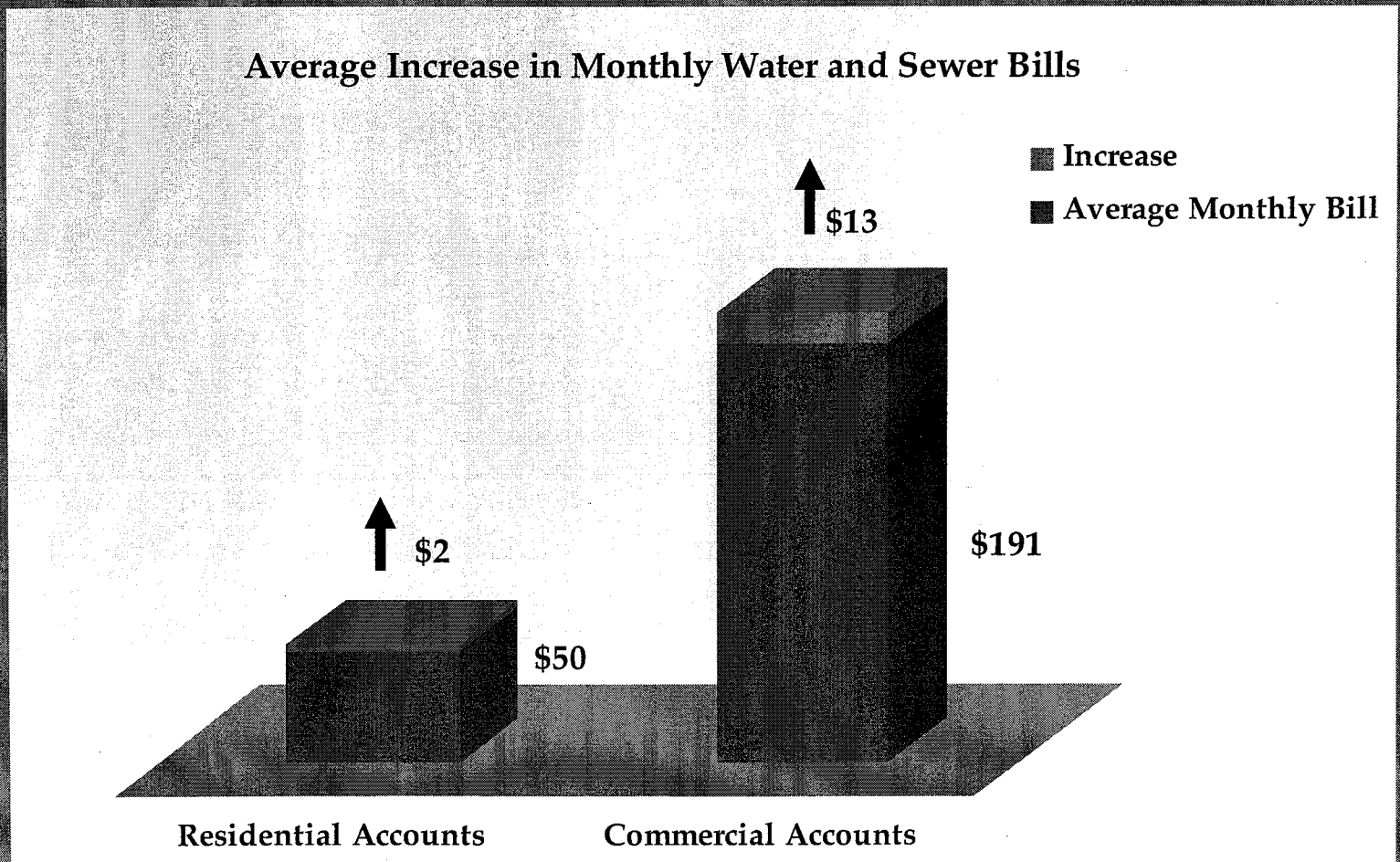
Sales Tax on Retail Sales of Utility Water and Sewer



Sales Tax on Retail Water and Sewer Sales



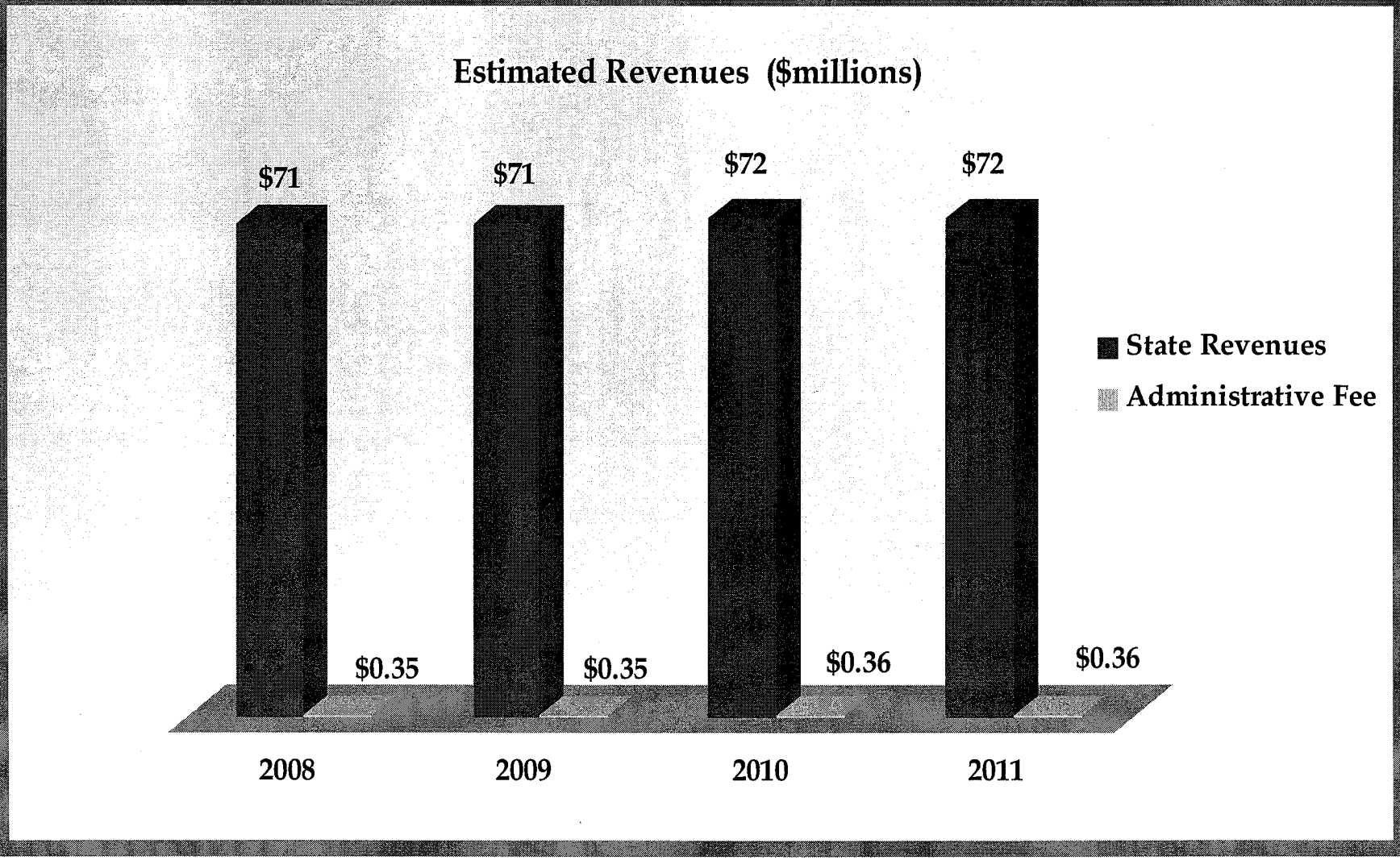
Sales Tax on Retail Water and Sewer Sales



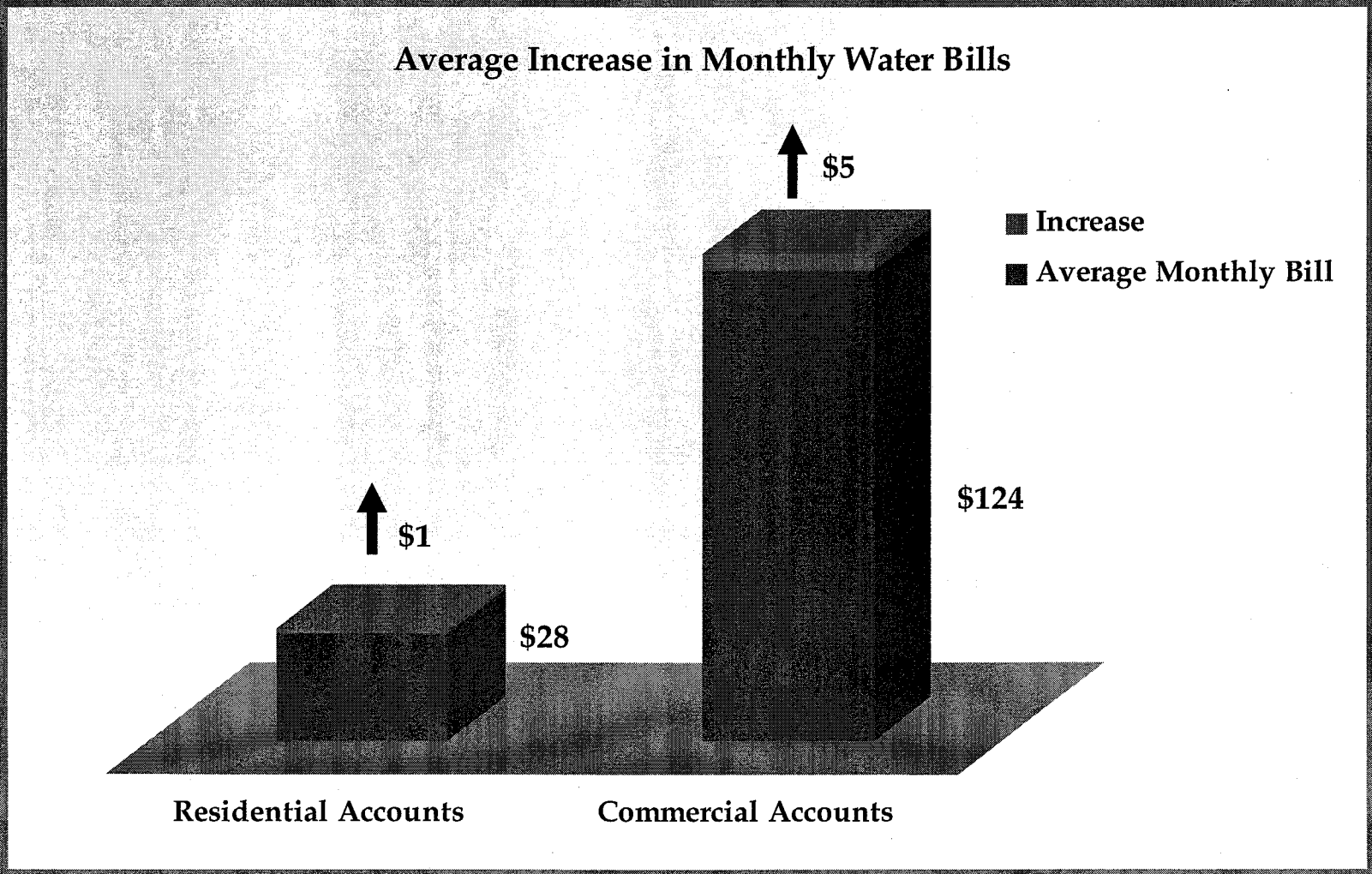
Water Conservation and Development Fee

- Proposed under Senate Bill 3 of the 79th Texas Legislature
- Would apply to the volume of water sold as opposed to taxing sales revenues
- Would apply to water sales only and not sewer
- Rate of $0.13 cents per 1,000 gallons of water sales
- Same administrative and exemptions as sales tax option including the first 5,000 gallons of monthly residential water use

Water Conservation and Development Fee



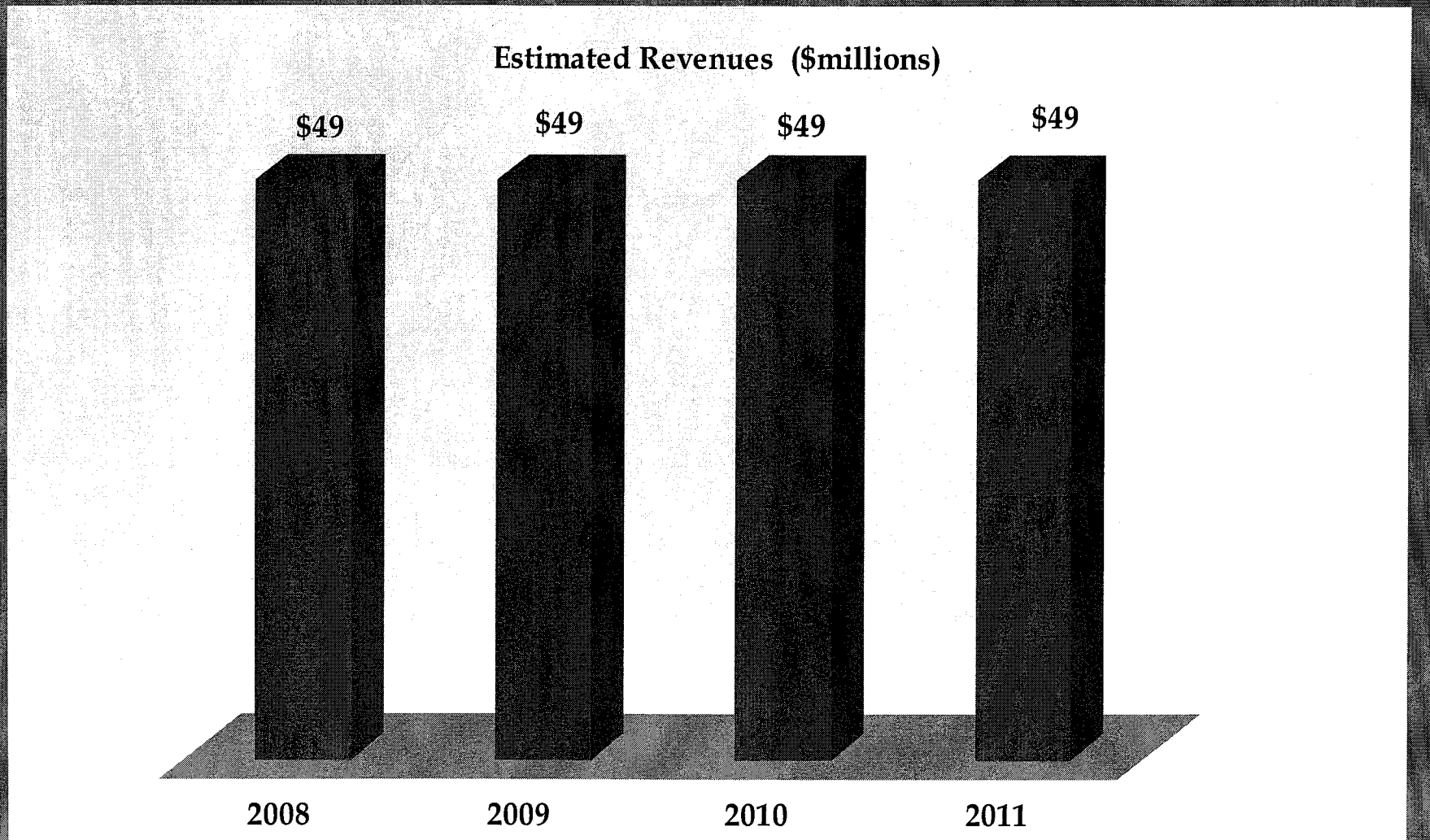
Water Conservation and Development Fee



Water Rights Fee

- Fee ($1.50/acre-foot) on authorized water rights in the state including municipal, industrial, irrigation, mining and multi-use permits
- Exempts hydropower, recreation, and domestic and livestock water rights

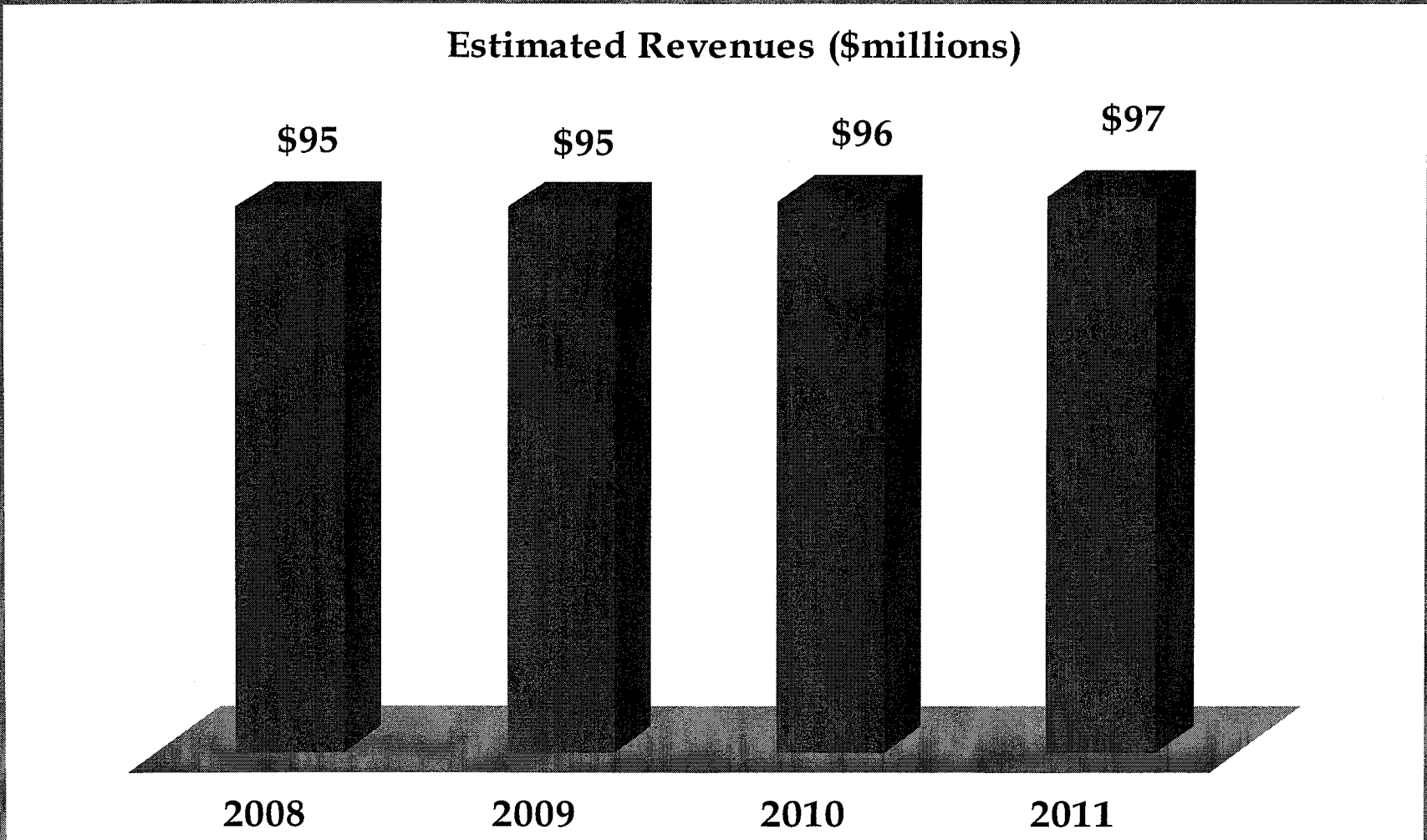
Water Rights Fee



Tap Fee on Public Water Supply Connections

- Places a charge on all Public Water Supply connections
- Monthly surcharge of $1.00 per connection
- Government and institutional users exempt

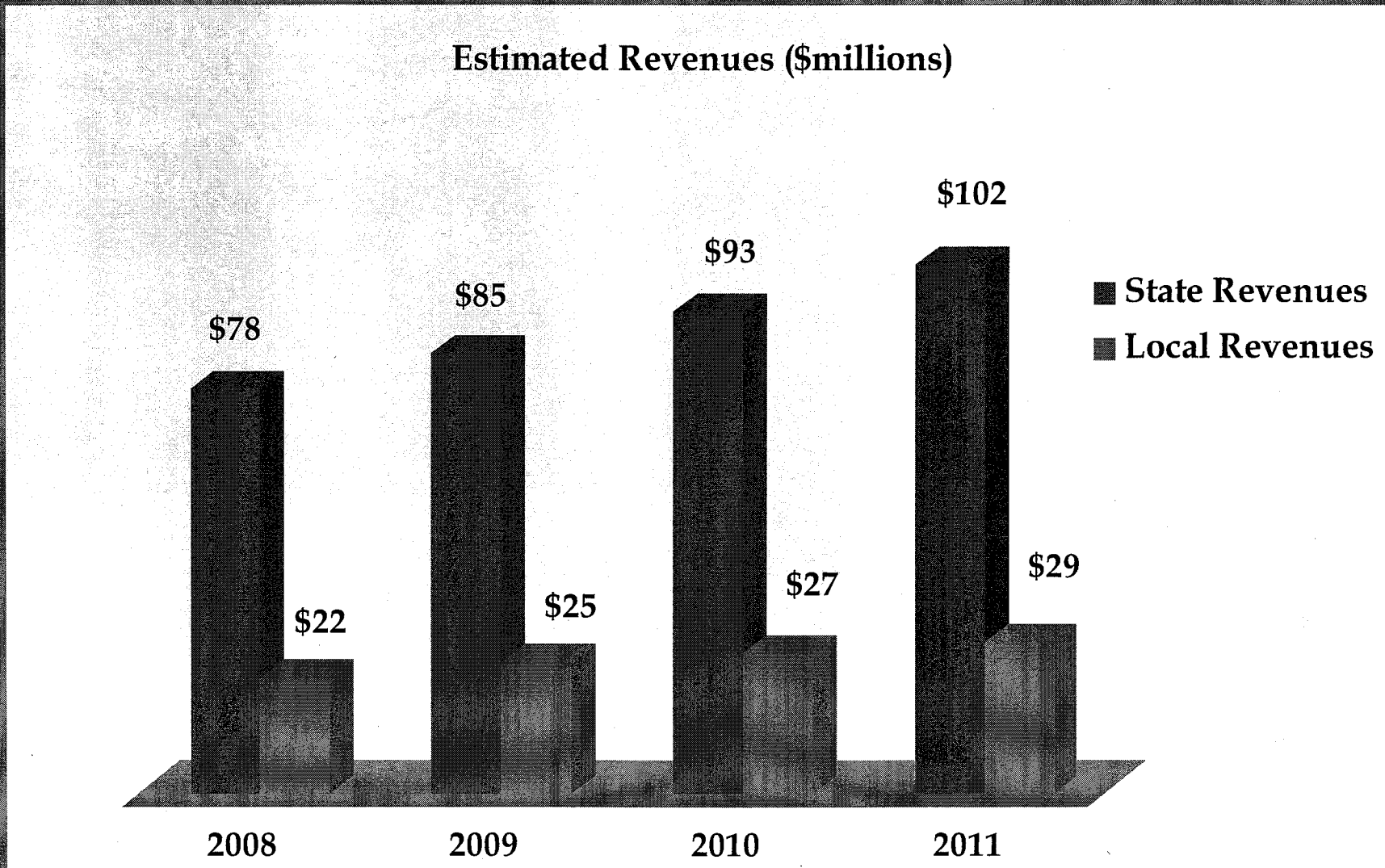
Tap Fee on Public Water Supply Connections



Sales Tax on Bottled Water

- State and local sale tax on retail sales of bottled water including:
  - non-carbonated bottled water commonly sold in retail outlets
  - distilled water sold in gallon or larger sized containers often used for cooking and drinking
  - carbonated or seltzer water including brands and a variety of products sold as club soda
  - "cooler" or delivered water sold to venues such as homes, offices, factories and schools (typically sold in 5 to 10 gallon containers and dispensed via drinking water coolers)
  - exempts non-packaged bulk water delivered by tanker truck and dispensed into residential cisterns or wells and water sold at community dispensers

Sales Tax on Bottled Water



Appendix S

AGENDA
Joint Committee on State Water Funding
October 21, 2008, 10:00 a.m.
Capitol Extension, E1.012
Austin, Texas

I. Call to Order

II. Texas Water Development Board
- Kevin Ward, Executive Administrator

III. Texas Commission on Environmental Quality
- Mark Vickery, Executive Director

IV. Discussion Panel
- Bill Allaway, President, Texas Taxpayers and Research Association
- Lynn Sherman, Lynn Sherman Law Firm and Consulting
- Michael J. Booth, Attorney, Booth, Ahrens & Werkenthin
- Brian Sledge, Attorney-at-Law, Lloyd Gosselink Rochelle & Townsend, P.C.

V. Industrial Panel
- John W. Fainter, Jr., President/CEO, Association of Electric Companies of Texas
- David Thorpe, Director of Government Affairs, American Beverage Association
- Daniel Felton, Director of Government Relations, International Bottled Water Association Russell Johnson, Partner, Mcginnis, Lochridge & Kilgore LLP and Outside Texas Counsel, Nestle Waters NA
- Mike McMullen, Director of Regulatory Affairs, Texas Chemical Council
- Luke Bellsnyder, Executive Director, Texas Association of Manufacturers
- Debbie Hastings, Vice President for Environmental Affairs, Texas Oil and Gas Association

VI. Municipal/Water Provider Panel
- Robert Puente, Interim President/CEO, San Antonio Water System
- Wiley Stem, Assistant City Manager, City of Waco
- Gus Gonzalez, Water Director, City of Corpus Christi
- Jody Puckett, Director, Dallas Water Utility
- Roger Fussell, District Manager, Lumberton MUD
- Lauren Crawford, Legal Counsel, Texas Municipal League

(over)

VII. Environmental Panel

- Mary Kelly, Vice President/Rivers and Deltas, Environmental Defense Fund
- Kirby Brown, Executive Vice President, Texas Wildlife Association
- Myron Hess, Manager of Texas Water Programs and Legal Council, National Wildlife Federation

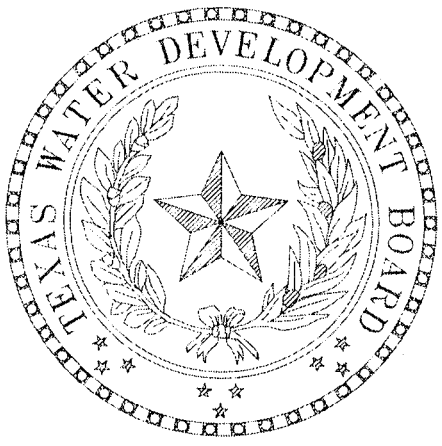
VIII. River Authorities Panel

- Phil Ford, General Manager, Brazos River Authority
- Suzanne Zarling, Executive Manager of Water Services, Lower Colorado River Authority
- Suzanne Scott, General Manager, San Antonio River Authority
- Sam Scott, Executive Services Manager, Trinity River Authority
- Robert Stroder, General Manager, Lower Neches River Authority
- Jerry Clark, General Manager, Sabine River Authority

IX. Public Testimony

X. Adjourn

Appendix T



Potential Revenue Sources for Funding Texas Water Programs

Prepared by the Texas Water Development Board

Water Resources Planning Division

September 9th 2008

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Potential Revenue Sources for Funding Texas Water Programs

Introduction

The following document contains estimates of potential revenue sources for funding Texas water supply programs. The Texas Water Development Board developed the estimates with the consultation of staff from the Texas Commission on Environmental Quality and the Office of Texas State Comptroller. Revenue sources considered include: 1) a tax on retail sales of water and/or sewer services provided by public water suppliers, 2) a fee on retail water sales applied to the volume of water use as opposed to a tax on utility revenues (i.e., a "water conservation development fee"), 3) a fee on water rights, 4) a "tap fee" on all water utility connections, and 5) a tax on retail sales of bottled water. In addition, this Appendix provides some examples of water related fees and taxes enacted by other state legislatures throughout the nation.

1. Sales Tax on Retail Sales of Utility Water and Sewer

1.1 Description

The sales tax would apply to retail sales of water and/or sewer services provided by Public Water Supply systems. As defined by the Texas Commission on Environmental Quality, Public Water Suppliers are those that meet the definition of "community water systems." These are systems that have the potential to serve at least 15 residential service connections on a year-round basis or that serve at least 25 residents on a year-round basis. Community water systems include municipal water utilities, various types of districts established under state law (e.g., municipal utility districts), and investor owned water utilities.

Exemptions from the tax include:

- the first 5,000 gallons of residential water use regardless of total monthly consumption;
- industrial customers;
- government and institutional customers; and
- religious, educational, charitable organizations, chambers of commerce, convention and tourist promotional agencies and any non-profit organization including hospitals providing charity care.

Tax rates applied in estimates are:

- state: 6 1/4%
- cities and counties: assumed an average rate 1.80% (actual value may vary depending upon local rates)

An "administrative fee" for utilities to administer and process tax collections would be allocated from total tax revenues at a rate of 0.5 percent.

1.2 Estimated Revenues

Water

Over the next several biennia, projected tax revenues for water range from about $171 million in 2008 to $187 million in 2011 (Table 1). Local governments would receive an estimated $38 million in 2008 and $42 million in 2011, while the state share totals $133 million in 2008 to $146 million in 2011.

Sewer

Over the next several biennia, projected revenues for sewer range from about $112 million in 2008 to $124 million in 2011 (Table 2). Local governments would receive an estimated $25 million in 2008 and $28 million in 2011, while the state portion amounts to $87 million in 2008 to $96 million in 2011.

Water and Sewer

Total projected revenues over the next two biennia for sewer and water range from $283 million in 2008 to $312 million in 2011. Local governments would receive an estimated $63 million in 2008 and $70 million in 2011, while the state portion amounts to $220 million in 2008 to $242 million in 2011.

1.3 Sensitivity of Tax Revenues to Changes in Level of Residential Exemption

Changes in the level of residential water exempted from a tax will affect revenue levels (Table 3). On average, a 1,000 gallon decline in the exemption level increases projected revenues in 2008 by about $13 million for water and $10 million for sewer for a total average increase of $23 million.

1.4 Cost Increases for Water Consumers

For commercial accounts the average monthly cost increase for water is $8.75 for water and $4.72 for sewer for a total of $13.47 (Table 4). For residential water customers monthly cost increases would vary based on the level of exemption. For example, under a fee structure with a 5,000 gallon exemption, average monthly water bills would increase by $1.21 for water and $0.92 for sewer for a total of $2.13 per month.

Table 1: Potential Revenues Generated from a Sales Tax on Retail Water Service Provided by Community Public Water Suppliers in Texas ($ millions)

	Estimated utility sales (water)	Estimated taxable utility sales (water)			
	2007	2008	2009	2010	2011
Residential	$2,162	$1,418	$1,465	$1,514	$1,565
Commercial	$561	$594	$614	$635	$656
Irrigation	$103	$110	$114	$118	$122
Industrial	$245	na	na	na	na
Government, fire and other/unspecified	$288	na	na	na	na
	Projected tax revenues (water)				
State tax revenues (6.25% of taxable revenues)	na	$133	$137	$142	$146
Local tax revenues (1.80 % of taxable revenues)	na	$38	$39	$41	$42
Administrative fee for utilities (0.5% of tax revenues)	na	$0.85	$0.88	$0.91	$0.94
Total tax revenues to state and local government	na	$171	$175	$182	$187

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial accounts
- government and institutional accounts
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 2: Potential Revenues Generated from a Sales Tax on Retail Sewer Service Provided by Community Public Water Suppliers in Texas ($millions)

	Estimated utility sales (sewer)	Estimated taxable utility sales (sewer) *			
	2007	2008	2009	2010	2011
Residential	$1,643	$1,078	$1,114	$1,151	$1,189
Commercial	$303	$321	$332	$343	$354
Irrigation	$0	$0	$0	$0	$0
Industrial	$132	na	na	na	na
Government, fire and other/unspecified	$155	na	na	na	na
	Projected tax revenues (sewer)				
State tax revenues (6.25% of taxable revenues)	na	$87	$90	$93	$96
Local tax revenues (1.80 % of taxable revenues)	na	$25	$26	$27	$28
Administrative fee for utilities (0.5% of tax revenues)	na	$0.56	$0.58	$0.60	$0.62
Total tax revenues to state and local government	na	$112	$116	$120	$124

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial
- government and institutional,
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 3: Sensitivity of Revenues to Changes in Levels of Residential Exemption for a Sales Tax on Water and/or Sewer ($millions, total projected state and local 2008 revenue levels)

Water	2008	
5,000 gallon exemption	$171	0%
4,000 gallon exemption	$189	10%
3,000 gallon exemption	$202	19%
2,000 gallon exemption	$217	27%
1,000 gallon exemption	$225	32%
No exemption on residential water	$237	39%
Sewer	2008	
5,000 gallon exemption	$112	0%
4,000 gallon exemption	$136	22%
3,000 gallon exemption	$154	37%
2,000 gallon exemption	$147	32%
1,000 gallon exemption	$154	37%
No exemption on residential water	$163	45%
Water and Sewer	2008	
5,000 gallon exemption	$283	0%
4,000 gallon exemption	$338	20%
3,000 gallon exemption	$333	18%
2,000 gallon exemption	$364	29%
1,000 gallon exemption	$379	34%
No exemption on residential water	$399	42%

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey.

Table 4: Estimated Increases in Average Monthly Water Bills for Residential and Commercial Water Customers Resulting from a Sales Tax on Water and/or Sewer (based on projected revenues levels in 2008)

	Residential		Commercial	
Water	Average monthly bill	Increase	Average monthly bill	Increase
5,000 gallon exemption	$28	$1.21		
4,000 gallon exemption	$28	$1.41	na	na
3,000 gallon exemption	$28	$1.55	na	na
2,000 gallon exemption	$28	$1.71	na	na
1,000 gallon exemption	$28	$1.80	na	na
No exemption on residential water	$28	$1.92	$124	$8.75
Sewer				
5,000 gallon exemption	$22	$0.92	na	na
4,000 gallon exemption	$22	$1.07	na	na
3,000 gallon exemption	$22	$1.18	na	na
2,000 gallon exemption	$22	$1.30	na	na
1,000 gallon exemption	$22	$1.37	na	na
No exemption on residential water	$22	$1.46	$67	$4.72
Water and Sewer				
5,000 gallon exemption	$50	$2.13	na	na
4,000 gallon exemption	$50	$2.48	na	na
3,000 gallon exemption	$50	$2.73	na	na
2,000 gallon exemption	$50	$3.01	na	na
1,000 gallon exemption	$50	$3.17	na	na
No exemption on residential water	$50	$3.38	$191	$13.47

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

2. Water Conservation and Development Fee Proposed under Senate Bill 3 of the 79th Texas Legislature

2.1 Description

A water conservation and development fee was proposed under Senate Bill 3 (79th Texas Legislature) to support water supply development in the state. It is similar in structure to the sales tax on water; however, it is designed as a fee that would apply to the volume of water sold by Public Water Systems as opposed to taxing sales revenues. As such, the fee would not necessarily apply to sewer service; although it could. As structured in Senate Bill 3, the fee would apply at a rate of $0.13 cents per 1,000 gallons of water sales. Exemptions from the fee include:

- the first 5,000 gallons of residential water used regardless of total monthly consumption;
- industrial customers;
- government and institutional customers; and
- religious, educational, and charitable organizations; chambers of commerce, convention and tourist promotional agencies; and any non-profit organization including hospitals providing charity care.

An "administrative fee" for utilities to administer and process tax collections would be allocated from the total tax revenues raised at a rate of 0.5 percent.

2.2 Estimated Revenues

Over the next several biennia, projected revenues from a water conservation and development fee range from $70 million in 2008 to $72 million in 2011assuming a 5,000 gallon exemption on residential water sales (Table 5).

2.3 Sensitivity of Tax Revenues to Changes in Level of Residential Exemption

Changes in the level of residential water exempted from the fee will affect revenue levels (Table 6). On average, a 1,000 gallon reduction in the exemption level increases revenues by roughly $9 million per year over the next two biennia.

2.4 Cost Increases for Water Consumers

With a 5,000 gallon exemption, costs to residential water consumers would rise by an estimated $0.48 per month on average (Table 7). A typical commercial customer would see an increase of $4.66 on their monthly water bill.

Table 5: Potential Revenues Generated from a Water Conservation and Development Fee as Proposed Under Senate Bill 3 of the 79th Texas Legislature ($millions)

	Estimated utility sales volume (acre-feet)	Estimated taxable utility sales volume (acre-feet)			
	2007	2008	2009	2010	2011
Residential	2,076,620	982,631	990,827	999,090	1,007,423
Commercial	577,716	570,884	575,645	580,446	585,287
Irrigation	114,426	115,381	116,343	117,313	118,292
Industrial	315,173	na	na	na	na
Government, fire and other/unspecified	249,572	na	na	na	na
	Projected tax revenues ($millions)				
Total fee revenues	na	$71	$71	$72	$72
Administrative fee for utilities (0.5% of fee revenues)	na	$0.35	$0.35	$0.36	$0.36
Total fee revenues to the state	na	$70	$71	$72	$72

Exemptions

- first 5,000 gallons of residential water use is exempted from the tax
- industrial
- government and institutional,
- non-profits, religious organizations etc.

Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

Table 6: Sensitivity of Total Fee Revenues to Changes in Levels of Residential Exemption for a Water Conservation and Development Fee ($millions based on projected 2008 fee revenue levels)		
Water	2008	
5,000 gallon exemption	$70	0%
4,000 gallon exemption	$77	+10%
3,000 gallon exemption	$85	+21%
2,000 gallon exemption	$94	+35%
1,000 gallon exemption	$104	+49%
No exemption on residential water	$115	+64%
Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey.		

Table 7: Estimated Increases in Average Monthly Water Bills for Residential and Commercial Water Customers due to a Water Conservation and Development Fee of $0.13 per 1,000 gallons (based on projected 2008 fee revenue levels)				
	Residential		Commercial	
Residential Exemption	Average monthly water bill	Increase	Average monthly bill	Increase
5,000 gallon exemption	$28	$0.48	na	na
4,000 gallon exemption	$28	$0.57	na	na
3,000 gallon exemption	$28	$0.66	na	na
2,000 gallon exemption	$28	$0.77	na	na
1,000 gallon exemption	$28	$0.88	na	na
No exemption on residential water	$28	$1.01	$122	$4.66
Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.				

3. Water Rights Fee

3.1 Description

A water rights fee would place a charge on authorized water rights in the state. Although the fee could vary according to type of use, for this presentation a $1.50 surcharge per acre-foot of authorized water for municipal, industrial, irrigation and mining water rights holders would apply. Water rights allocated to in-stream uses (i.e., recreation and hydroelectric) would be exempt as would water rights for storage.

3.2 Estimated Revenues

Over the next two biennia, projected fee revenues for this option are approximately $49 million dollars per annum (Table 8). The majority of revenues would stem from fees on holders on "multi-use" water rights holders, which generally include a combination of water rights for municipal, industrial and or irrigation water use ($22 million per year) and industrial use ($16 million per year).

3.3 Cost Increases for Water Consumers

For municipal water rights holders, average annual costs would total $10,906, and costs for industrial permit holders would amount to $44,421 per year. Annual costs to irrigators and mining operations are lower at $1,148 and $1,413 respectively.

Table 8: Potential Revenues Generated from a Fee on Water Rights in Texas (2008-2011)

	Annual volume permitted (acre-feet)	No. of permit holders	Avg. volume per permit holder (acre-feet)	Projected annual fee revenues ($millions)	Avg. annual cost per permit holder
Municipal	3,068,153	422	7,271	$4.60	$10,906
Multiuse	14,611,991	895	16,326	$21.92	$24,489
Industrial	10,927,458	369	37,468	$16.39	$44,421
Irrigation	4,136,024	5,404	846	$6.20	$1,148
Mining	149,751	159	1,068	$0.22	$1,413
Hydroelectric	11,167,361	25	748,782	na	na
Other	232,849	1,402	439	na	na
Total	44,293,587	8,676	812,199	$49.34	$5,687

* Assumes an annual fee of $1.50 per acre-foot of permitted water. "Other" primarily includes storage rights, recreation, domestic and livestock uses and recharge. Source: Based on data from the Texas Commission on Environmental Quality Water Rights Database 2006. "na" = not applicable.

4. Tap Fee on Public Water Supply Connections

4.1 Description

A "tap fee" would place a charge on all Public Water Supply connections in the state. Although the fee could vary according to type of use, for this presentation a monthly surcharge of $1.00 per connection regardless of the type or volume of use is assumed; however, the fee could be structured to exempt low volume water consumers or different types of water users. Figures here assume that government and institutional users would be exempt.

4.2 Estimated Revenues

Over the next two biennia, projected fee revenues for this option are approximately $95 million in 2008 and $97 million in 2011 (Table 9). The majority of revenue streams would stem from residential water consumers (approximately 95 percent of total fee revenues).

4.3 Cost Increases for Water Consumers

Costs would increase by $1.00 per month for total annual costs of approximately $12.00 per connection.

Table 9: Potential Revenues Generated from a Tap Fee on Public Water Supply Connections in Texas ($millions)

	Estimated no. of connections	Projected no. of connections *			
	2007	2008	2009	2010	2011
Residential	7,233,497	7,371,074	7,440,840	7,511,267	7,582,361
Commercial	428,992	437,151	441,288	445,465	449,681
Irrigation	49,951	50,901	51,383	51,869	52,360
Industrial	21,719	21,966	22,091	22,216	22,342
Government, fire and other/unspecified	224,004	na	na	na	na
	Projected fee revenues ($millions)				
Total fee revenues	na	$95	$95	$96	$97

*Estimates assume a $1.00 monthly charge per connection. Government, fire and other institutional connections are assumed exempt. Source: TWDB analysis of data from American Water Works Association, data from the Texas Commission on Environmental Quality and data from the TWDB Water Uses Survey. "na" = not applicable.

5. Sales Tax on Bottled Water

5.1 Description

A sales tax on bottled water would extend state and local sales taxes to retail sales of bottled water and would likely include:

- non-carbonated bottled water commonly sold in retail outlets (e.g., Evian or Ozark Springs) in various size containers;
- distilled water sold in gallon or larger sized containers often used for cooking and drinking;
- carbonated or seltzer water including brands such as Perrier and a wide variety of products sold as "club soda;" and
- "cooler" or delivered water to venues such as homes, offices, factories and schools. These are typically sold in 5 to 10 gallon containers and dispensed via drinking water coolers.

This does not include non-packaged bulk water delivered by tanker truck and dispensed into residential cisterns or wells, nor would it include water sold at community dispensers.

5.2 Estimated Revenues

Based on information from the International Bottled Water Marketing Association and the U.S. Beverage Marketing Association, sales of bottled water in the U.S. have risen sharply over the years. In 1976, retailers sold about 354 million gallons of bottled water. In 2007, retailers across the U.S. sold 9,075 million gallons worth of bottled water with total sales revenues valued at roughly $11,905 million. The average annual growth rate in revenues has been 12 percent per year. California leads the nation in consumption with about one fourth of the market followed by Texas and Florida. Texas has consistently made up about 10 percent of the national market based on volume; and since 1985, volumetric sales in the state have grown by 500 percent. In 2007, estimated sales revenues for bottled water in Texas totaled nearly $1,191 million (Table 10). Projected tax revenues for bottled water in 2008 would amount to about $100 million with $78 million in state taxes and $22 million in local taxes. By 2011, bottled water sales in Texas will likely increase substantially and would generate state and local tax revenues valued at an estimated $131 million ($102 million in state taxes and approximately $29 million in local tax revenues).

Table 10: Potential Revenues Generated from a Sales Tax on Bottled Water in Texas ($millions)

	Estimated historical sale revenues	Projected sales revenues ($millions)			
	2007	2008	2009	2010	2011
Bottled water sales	$1,191	$1,248	$1,364	$1,490	$1,628
	Projected tax revenues from bottled water sales ($millions)*				
State tax revenues (6.25% of taxable revenues)	na	$78	$85	$93	$102
Local tax revenues (1.80 % of taxable revenues)	na	$22	$25	$27	$29
Total tax revenues to state and local government	na	$100	$110	$120	$131

* Estimates for projected bottled water sales revenues were adjusted to reflect to the negative impact of a price increase due to sale tax on sales volumes.

Source: Based on TWDB analysis from the International Bottled Water Association and U.S. Beverage Marketing Association.
"na" = not applicable.

Survey of Water Related Fees and Taxes in Other States

Table 11 contains examples of water related fees and taxes that state governments in other areas of the nation have enacted over the years. The list is not intended to be comprehensive, but rather serves to illustrate how some other states have approached water use from the perspective of public finance.

Table 11: Survey of Water Related Fees and Taxes Enacted by Other States		
State	Financing mechanism	Description of financing mechanism and other comments
Arizona	▪ Sales tax/transaction privilege tax on water ▪ State water quality tax ▪ Storm Water Fee	Sales tax: A city, county & state sales tax is imposed on water fees at a rate of 7.0 percent (5 percent state and 2 percent local). Applies to retail sales of utility water (cooperatives, municipalities, water haulers or other private entities in the business of producing and furnishing or furnishing water to consumers are taxable under the utilities classification). Exemptions: Ice cubes and bottled water including carbonated and mineral water is exempt. Bottled water, however, that is delivered by a retailer to an office or other business establishment is not considered food for home consumption and is therefore subject to tax under the retail classification. Exemptions also include sale or delivery of water by the U.S. government, any state governmental entity, such as an agricultural improvement district or irrigation district, or an authorized agent thereof that is acting in fulfillment of a governmental function is not subject to taxation. State water quality tax: mandates a fee of $0.0065 per 1,000 gallons of water usage for the preservation of water quality is charged to residential and commercial accounts and is paid to the state's revolving fund for water quality improvement projects. Storm water fee: A surcharge of $0.50 is charged to each utility account
Arkansas	▪ Sales tax on retail water ▪ Water use fee	Sales tax: 6.0 percent state sales tax on residential, commercial and industrial water sales. Water use fee: requires all users of surface and ground water be assessed an annual water use fee in the amount of $10 per registered-surface water diversion and $10 per registered well, which are payable at the time of water use reporting (October 1 through March 1). Fees collected are used for cost-share on water conservation practices, administration, and information/education programs
California	▪ Fee on water rights	Effective in 2004, California assesses an annual water right fee to each holder of a permit or license based upon the volume of water in acre-feet authorized for diversion under that water right permit or license. The annual water right fee for permits and licenses in fiscal year 2003-2004 is the greater of $100 or $0.03 per acre-foot based on the total annual amount of diversion.
Georgia	▪ Recently increased state sales tax to fund water infrastructure	Increased state sales tax by 1 percent in 2004 to fund water infrastructure for the City of Atlanta.

Table 11: Survey of Water Related Fees and Taxes Enacted by Other States		
Kansas	▪ Various water use fees ▪ Sales tax on water	Water use fees: Water Protection Fees. A water protection fee of 3 cents per 1,000 gallons of water is assessed on the following: 1) water sold at retail by public water supply systems; 2) water appropriated for industrial use; and 3) water appropriated for stock watering. Fees imposed on fertilizer and pesticides. A tonnage fee on fertilizer and a fee for the registration of pesticides is assessed and transferred to the State Water Plan Fund in the following amounts: inspection fees are imposed on each ton of fertilizer sold, offered or exposed for sale, or distributed in Kansas. Of that fee, $1.40 per ton is credited to the State Water Plan Fund. Clean Water Drinking Fee. A Clean Water Drinking Fee of $0.03 cents per 1,000 gallons of water is assessed on retail water sold by a public water supply system and delivered through mains, lines or pipes. Beginning in fiscal year 2008, 101/106 of the Clean Water Drinking Fee receipts will be deposited in the State Water Plan Fund. Of the funding received from the fee, 85 percent is to be used to renovate and protect lakes which are used directly as a source of water for public water supply systems. The remaining 15 percent is to be used to provide on-site technical assistance for public water supply systems. Sales tax on retail utility water: Applies to non-residential water excluding water used for agricultural purposes or water used in the production of manufacturing goods. Other exemptions also apply (e.g., religious, non-profits, government).
Louisiana	▪ Sales tax water	Water sales to non-residential consumers (commercial and industrial) are taxable at a 3.8 percent rate. Water sales to individual residential consumers are exempt; however, sales where a single meter is used to measure consumption by several residential units are subject to the tax (i.e., multi-family rentals).
Maryland	▪ Water and wastewater fee	A $2.50 per month fee for residential water and sewer customers of the Washington Suburban Sanitary Commission (among the 10 largest water and wastewater utilities in the country). Non-residential customers charged on a sliding scale fee based on the number of equivalent dwelling units (EDUs). Revenue funds will upgrade wastewater treatment plants throughout Maryland.

Table 11: Survey of Water Related Fees and Taxes Enacted by Other States		
Michigan	▪ Water use fee	Fee to administer Clean Drinking Water Act: The full fees for community systems are based on population served, and range from $340.06 to $113,985.12 per year. Non-community fees are divided into two categories. Facilities with wells serving primarily a transient population such as campgrounds, rest stops, motels, and restaurants are classified as transient non-community water supplies. Their annual fee is $104.28. Non-transient non-community water systems (schools and businesses) serve the same 25 or more persons (students/employees) on a routine basis, at least six months per year. The non-transient annual fee is $441.67 per year.
Nebraska	▪ Sales tax on water and sewer	Sales tax applies to all amounts paid for sewer and water, irrespective of whether there is an actual consumption or not. Thus, there is tax due on all payments whether in the form of a minimum charge, a flat rate, or other billing method. Gross receipts from furnishing sewer service are taxable regardless of the nature of the use. Rental charges made to the customer for meters, bottles, and related equipment are rentals of property and are taxable. Water used for irrigation of agricultural lands, manufacturing purposes, or for the care of or consumption by animal life, the products of which ordinarily constitute food for human consumption or the pelts of which are ordinarily used for human apparel, is not taxable.

Table 11: Survey of Water Related Fees and Taxes Enacted by Other States

Minnesota	▪ Sales tax on retail sales of non-residential water ▪ Water use fee for water permit holders	Sales tax: Non-residential (commercial and industrial) water sales are taxable at a rate of 7 percent. Exemptions include housing authorities, non-profits, government and institutions and ice manufacturers. All sewer service is exempt as is bottled water. Water use fee is collected by the state based on permitted water use: Volume appropriated for each permit: 0 to 50 million gallons — $101 minimum fee 50 to 100 million gallons — $3.00 for each million 100 to 150 million gallons — $3.50 for each million 150 to 200 million gallons — $4.00 for each million 200 to 250 million gallons — $4.50 for each million 250 to 300 million gallons — $5.00 for each million 300 to 350 million gallons — $5.50 for each million 350 to 400 million gallons — $6.00 for each million 400 to 450 million gallons — $6.50 for each million 450 to 500 million gallons — $7.00 for each million Above 500 million gallons — $7.50 for each million Maximum annual water use fees: $750 for any single agricultural irrigation permit $50,000 total for an entity with 3 or less permits $75,000 total for an entity with 4 to 5 permits $250,000 total for an entity with more than 5 permits $250,000 total for a city of the first class $10,000 for a municipality that furnishes electric service and co-generates steam for home heating. Once-through heating and cooling systems only: A separate annual water use fee schedule exists for once-through heating and cooling (HVAC) systems. Non-profit corporations and school districts pay $150 per million gallons and all other entities with once-through heating and cooling systems pay $300 per million gallons. There is no maximum fee for once-through systems.

Table 11: Survey of Water Related Fees and Taxes Enacted by Other States		
Oregon	▪ Water use and water rights transfer fees	For regular transfers, permit amendments and water right exchanges there is a minimum base fee for one change of $350 and $175 for each cubic foot per second (CFS). For temporary transfers there is minimum base fee of $175 plus $75 for each CFS or fraction thereof beyond the first CFS for non-irrigation uses. For irrigated uses the fee is $1.00 per acre of land irrigated. For permanent irrigation district transfers there is a base fee of $350 for up to one CFS plus and additional fee of $175 for each CFS or fraction thereof in addition to the first CFS. For temporary irrigation district transfers there is a base fee of $175 for up to one CFS plus $75 for each CFS or fraction thereof in addition to the first CFS for non-irrigation uses. For irrigated uses the fee is $1.00 per acre of land irrigated.
Tennessee	▪ Sales tax on retail sales water utility accounts	All residential and commercial water utility accounts charged at 7 percent rate. When sold to or used by manufacturer, water is taxed at 1 percent. Appears to apply to bottled water sales as well.
Source: TWDB survey of state websites.		

Appendix U

Summary of Potential Revenue Sources for Funding Texas Water Programs (2008–2011)

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1) Sales Tax on Retail Utility Water and Sewer Service

Description: Applies the state sales tax to retail sales of water and sewer service (6.25% for the state sales tax and 1.80% for local sales taxes). Exempts the first 5,000 gallons of monthly residential water use, and industrial, governmental, and institutional water use.

Revenues: Estimated revenues to the state range from $220 million in 2008 to $242 million in 2011. Estimated revenues to local government range from $63 million in 2008 to $70 million in 2011.

2) Water Conservation and Development Fee

Description: Applies to the volume of water sold as opposed to taxing sales revenues. As structured, the fee would apply a rate of $0.13 cents per 1,000 gallons of water sold, and would exempt the first 5,000 gallons of monthly residential water use, industrial water use and governmental and institutional water use.

Revenues: Estimated revenues to the state range from $71 million in 2008 to $72 million in 2011. As structured, this option would not generate revenues for local governments.

3) Water Rights Fee

Description: Would place a $1.50 surcharge per acre-foot on currently authorized and future permits issued to municipal, industrial, irrigation and mining water rights holders. Water rights allocated to in-stream uses (i.e., recreation and hydroelectric) would be exempt as would rights for water storage.

Revenues: Estimated revenues to the state are approximately $49 million per annum from 2008 to 2011. As structured, this option would not generate revenues for local governments.

4) Tap Fee on Public Water Supply Connections

Description: Places a $1.00 fee on public water supply connections; government and institutional water connections would be exempt.

Revenues: Estimated revenues to the state range from $95 million in 2008 to $97 million in 2011. As structured, this option would not generate revenues for local governments.

5) Sales Tax on Bottled Water

Description: Extends the state sales tax to retail sales of bottled water (6.25% for the state sales tax and 1.80% for local sales taxes). Would not include non-packaged bulk water delivered by tanker truck and dispensed into residential cisterns or wells, nor would it include water sold at community dispensers.

Revenues: Estimated revenues to the state range from $78 million in 2008 to $102 million in 2011. Estimated revenues to local government range from $22 million in 2008 to $29million in 2011.

Appendix V

Total Agency Summary

(biennial totals)

	Base	Exceptional	Total
Agency Operations	$93,297,645	$54,550,438	$147,848,083
Debt Service	153,072,999	108,877,886	261,950,885
Total	$246,370,644	$163,428,324	$409,798,968
FTE	348.1	28.0	376.1

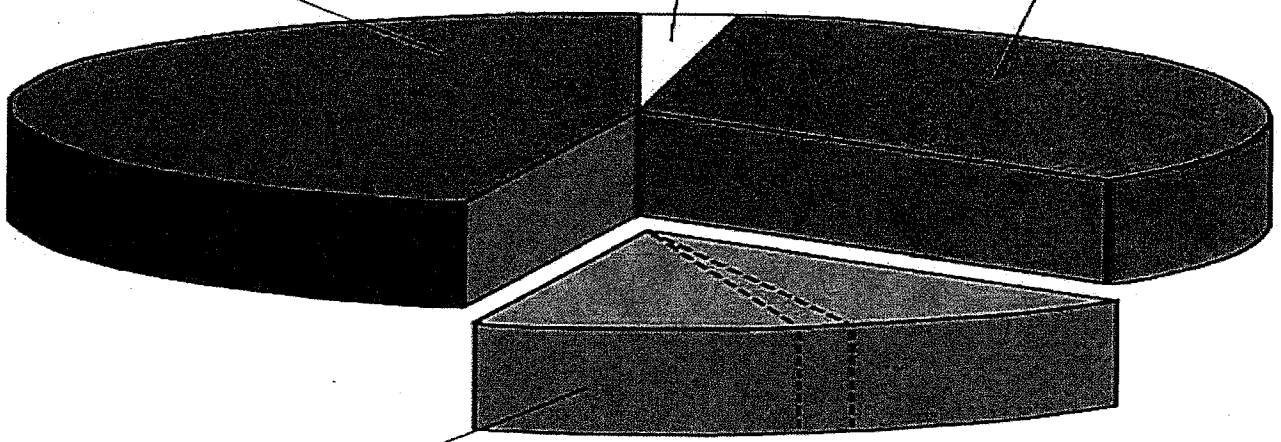
Texas Water D opment Board
Total Agency
2010-11 Legislative Appropriation Request

Strategy	Baseline 2010	Baseline 2011	Baseline Biennial Total	Exceptional Items 2010	Exceptional Items 2011	Exceptional Items Biennial Total	Total Request 2010	Total Request 2011	Total Request Biennial Total
Agency Operations									
A. Goal: Water Resource Planning									
A.1.1. Environmental Impact	$ 1,727,372	$ 1,718,372	$ 3,445,744	$ 207,500	$ 132,500	$ 340,000	$ 1,934,872	$ 1,850,872	$ 3,785,744
A.1.2. Water Resources Data Collection & Assessment	3,548,405	3,564,885	7,113,290	1,699,861	1,580,336	3,280,197	5,248,266	5,145,221	10,393,487
A.1.3. Automated Information	2,894,527	2,894,527	5,789,054	225,350	199,250	424,600	3,119,877	3,093,777	6,213,654
A.2.1. Technical Assistance & Modeling	2,697,840	2,697,839	5,395,679	3,301,665	3,244,795	6,546,460	5,999,505	5,942,634	11,942,139
A.2.2. Water Resources Planning	10,448,570	10,448,570	20,897,140	4,329,803	2,305,708	6,629,511	14,772,373	12,754,278	27,526,651
A.3.1. Water Conservation	1,640,102	1,565,102	3,205,204	3,117,500	3,117,500	6,235,000	4,757,602	4,682,602	9,440,204
A.4.1. National Flood Insurance Program (NFIP)	2,996,793	2,996,793	5,993,586			-	2,996,793	2,996,793	5,993,586
Total, Goal 1	**$ 25,953,609**	**$ 25,886,088**	**$ 51,839,697**	**$ 12,875,679**	**$ 10,580,089**	**$ 23,455,768**	**$ 38,829,288**	**$ 36,466,177**	**75,295,465**
B. Goal: Water Project Financing									
B.1.1. Financial Assistance	$ 10,702,506	$ 10,702,506	$ 21,405,012	$ 13,870,070	$ 14,864,900	$ 28,734,970	$ 24,572,576	$ 25,567,406	$ 50,139,982
B.1.2. Economically Distressed Areas	2,235,719	2,235,721	4,471,440	1,079,400	1,280,300	2,359,700	3,315,119	3,516,021	6,831,140
Total, Goal 2	**$ 12,938,225**	**$ 12,938,227**	**$ 25,876,452**	**$ 14,949,470**	**$ 16,145,200**	**$ 31,094,670**	**$ 27,887,695**	**$ 29,083,427**	**56,971,122**
C. Goal: Indirect Administration									
C.1.1. Central Administration	$ 3,862,663	$ 3,862,664	$ 7,725,327			$ -	$ 3,862,663	$ 3,862,664	$ 7,725,327
C.1.2. Information Resources	3,193,931	3,190,598	6,384,529			-	3,193,931	3,190,598	6,384,529
C.1.3. Other Support Services	735,820	735,820	1,471,640			-	735,820	735,820	1,471,640
Total, Goal 3	**$ 7,792,414**	**$ 7,789,082**	**$ 15,581,496**	**$ -**	**$ -**	**$ -**	**$ 7,792,414**	**$ 7,789,082**	**15,581,496**
Total, Strategy Request	**$ 46,684,248**	**$ 46,613,397**	**$ 93,297,645**	**$ 27,825,149**	**$ 26,725,289**	**$ 54,550,438**	**$ 74,509,397**	**$ 73,338,686**	**147,848,083**
FTEs	**348.10**	**348.10**		**24.50**	**28.00**		**372.60**	**376.10**	
Debt Service									
A. Goal: Gen Obligation Bond Debt Service									
A.1.1. EDAP Debt Service	$ 22,689,114	22,754,040	$ 45,443,154	$ 3,357,709	$ 6,913,384	$ 10,271,093	$ 26,046,823	$ 29,667,424	$ 55,714,247
A.1.2. State Participation Debt Service	18,341,550	18,913,300	37,254,850	5,041,667	10,541,667	15,583,334	23,383,217	29,454,967	52,838,184
A.1.4. WIF Debt Service	34,129,370	36,245,625	70,374,995	35,788,542	47,234,917	83,023,459	69,917,912	83,480,542	153,398,454
Total, Strategy Request	**$ 75,160,034**	**$ 77,912,965**	**$ 153,072,999**	**$ 44,187,918**	**$ 64,689,968**	**$ 108,877,886**	**$ 119,347,952**	**$ 142,602,933**	**$ 261,950,885**
GRAND TOTAL (Operations and Debt Service)	**$ 121,844,282**	**$ 124,526,362**	**$ 246,370,644**	**$ 72,013,067**	**$ 91,415,257**	**$ 163,428,324**	**$ 193,857,349**	**$ 215,941,619**	**$ 409,798,968**

Texas Water Development Board
Annual GR/GR Dedicated Funding Required

Operations		
Baseline		
General Revenue		$ 28,226,003
Dfund administration		980,312
Exceptional Items - Recurring		
EDAP	1,280,300	
Federal Regulatory Support	270,070	
Groundwater Science	1,883,863	
Advancing Water Conservation	3,367,500	
Ogallala Aquifer	411,515	
SB3 Environmental Flows	319,952	
TNRIS Date Services	225,350	
Flood Protection Planning Grants	2,000,000	
Climate Variability	3,667,499	13,426,049
Total Annual Operating		42,632,364
Debt Service		
Baseline		51,369,584
Exceptional Items		
EDAP	4,187,700	
State Water Plan	87,107,283	
State Participation	2,750,000	94,044,983
Total Annual Debt Service		145,414,567
Total Annual GR		$ 188,046,931

Infrastructure Financing Needs



$79.0 billion
Capital cost needed for water treatment and distribution projects

$4.2 billion
Capital cost needed for flood control

$59.1 billion
Capital cost needed for wastewater treatement and collection projects

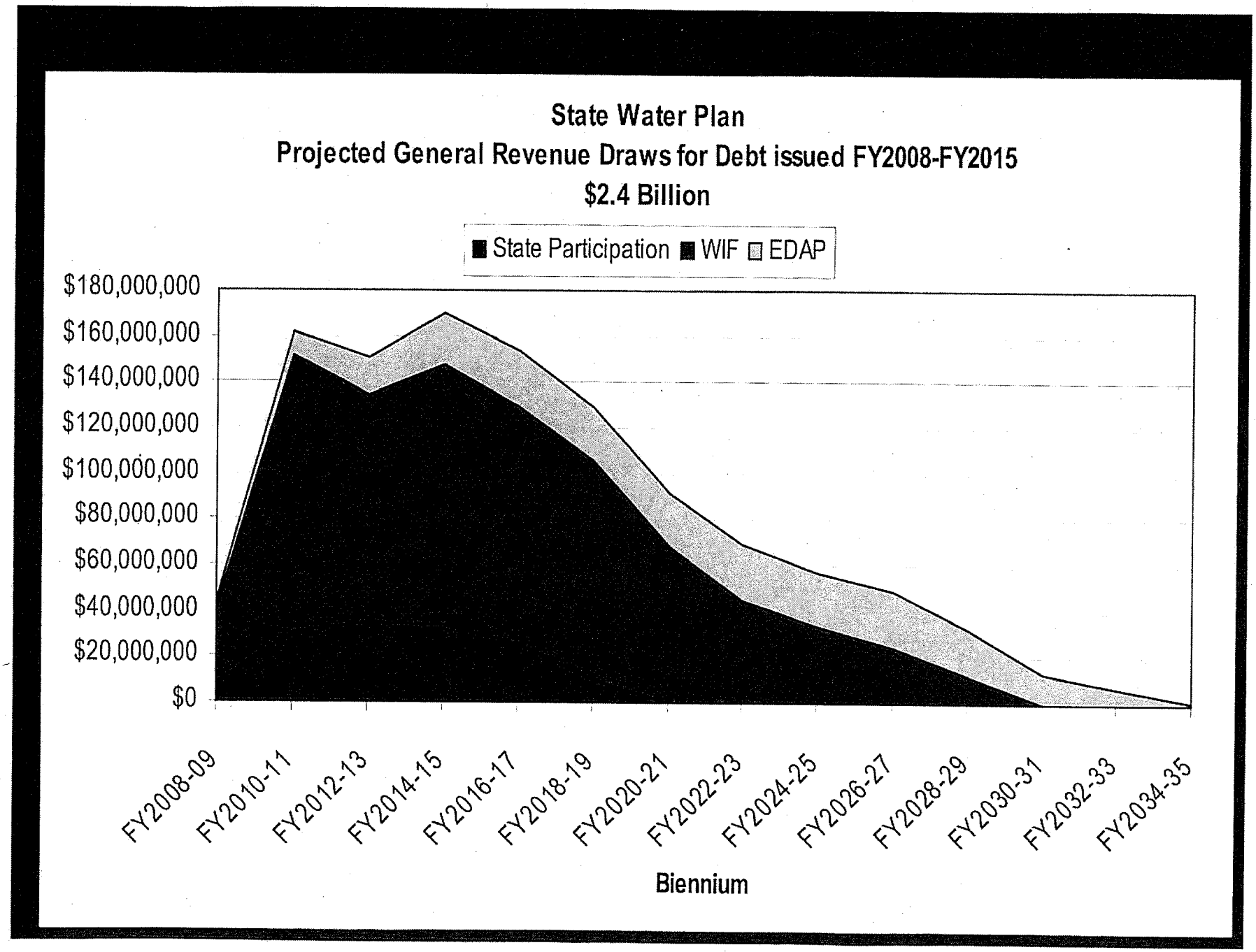
$30.7 billion
Capital cost needed to implement water management strategies in the 2007 State Water Plan ($1.4 billion for water management strategies for nonmunicipal water-using groups)

$2.4 billion
Additional funding requested from the state to implement water management strategies for municipal water user groups

Total capital cost: $173 billion

State Water Plan
Funding Methodology

State Water Plan Projects	FY08 Actual	FY09 Revised	FY10	FY11	FY12	FY13	FY14	FY15	Total
State Participation	$ -	$ 170,000,000	$ 75,000,000	$ 75,000,000	$ 25,000,000	$ 25,000,000	$ 25,000,000	$ 25,000,000	$420,000,000
WIF Subsidized	60,208,984	223,248,356	400,000,000	400,000,000	100,000,000	100,000,000	100,000,000	100,000,000	$1,483,457,340
WIF 10 year deferred	56,990,249	103,590,769	50,000,000	50,000,000	25,000,000	25,000,000	25,000,000	25,000,000	$360,581,018
WIF Rural	-	9,494,063	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	$24,494,063
Subtotal - WIF	117,199,233	336,333,188	452,500,000	452,500,000	127,500,000	127,500,000	127,500,000	127,500,000	1,868,532,421
EDAP - EDAP Grants	-	27,958,125	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	$117,958,125
EDAP - Rural Grants	-	9,494,063	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	$24,494,063
Subtotal - EDAP	-	37,452,188	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	142,452,188
	$ 117,199,233	$ 543,785,376	$ 545,000,000	$ 545,000,000	$ 170,000,000	$ 170,000,000	$ 170,000,000	$ 170,000,000	$ 2,430,984,609
	Cumulative Total	$ 660,984,609	$ 1,205,984,609	$ 1,750,984,609	$ 1,920,984,609	$ 2,090,984,609	$ 2,260,984,609	$ 2,430,984,609	


State Water Plan
Projected General Revenue Draws for Debt issued FY2008-FY2015
$2.4 Billion
State Participation
WIF
EDAP
$180,000,000
$160,000,000
$140,000,000
$120,000,000
$100,000,000
$80,000,000
$60,000,000
$40,000,000
$20,000,000
$0
FY2008-09
FY2010-11
FY2012-13
FY2014-15
FY2016-17
FY2018-19
FY2020-21
FY2022-23
FY2024-25
FY2026-27
FY2028-29
FY2030-31
FY2032-33
FY2034-35
Biennium

State Water Plan
All - Programs (State Participation, EDAP and WIF)
Projected General Revenue Draws for Debt Issued FY2008-FY2015

FY	State Participation	EDAP	WIF	Anticipated GR Draw	Biennium GR Draw	Biennium
2008	-	-	7,781,913	7,781,913		
2009	8,570,833	2,958,214	24,812,281	36,341,329	44,123,242	FY08-09
2010	13,131,250	4,513,312	57,078,853	74,723,415		
2011	17,256,250	5,981,162	63,776,419	87,013,831	161,737,246	FY10-11
2012	16,921,142	7,446,287	48,379,508	72,746,937		
2013	17,440,579	8,912,037	51,195,488	77,548,104	150,295,040	FY12-13
2014	16,990,379	10,381,487	54,891,823	82,263,690		
2015	16,682,773	11,842,437	58,582,073	87,107,283	169,370,972	FY14-15
2016	14,202,150	11,925,945	52,137,357	78,265,453		
2017	11,250,459	11,929,120	51,862,502	75,042,082	153,307,535	FY16-17
2018	7,942,284	11,926,345	47,860,681	67,729,311		
2019	1,933,859	11,922,070	47,856,932	61,712,862	129,442,173	FY18-19
2020	-	11,915,470	37,910,744	49,826,215		
2021	-	11,920,720	29,998,298	41,919,019	91,745,233	FY20-21
2022	-	11,916,170	24,117,078	36,033,249		
2023	-	11,916,270	21,112,910	33,029,180	69,062,429	FY22-23
2024	-	11,919,645	18,184,604	30,104,249		
2025	-	11,919,920	15,251,114	27,171,034	57,275,283	FY24-25
2026	-	11,920,995	12,321,821	24,242,816		
2027	-	11,926,495	12,262,086	24,188,581	48,431,397	FY26-27
2028	-	11,941,958	12,273,415	24,215,373		
2029	-	8,778,775	-	8,778,775	32,994,148	FY28-29
2030	-	7,316,725	-	7,316,725		
2031	-	5,852,975	-	5,852,975	13,169,700	FY30-31
2032	-	4,385,825	-	4,385,825		
2033	-	2,918,850	-	2,918,850	7,304,675	FY32-33
2034	-	1,450,625	-	1,450,625		
2035	-	-	-	-	1,450,625	FY34-35
2036	-	-	-	-		
Total	$ 142,321,959	$ 237,739,839	$ 749,647,903	$ 1,129,709,701	$ 1,129,709,701	

State Water Plan
Water Infrastructure Fund (Inlcudes Deferred, Subsidized and Rural Loans)
Projected Cash Flows for Debt Issued FY2008-FY2015

FY	WIF 10-Yr Deferred Loans	WIF Subsidized Loans	WIF Rural Loans	TOTAL	Anticipated Total Loan Repayments	Anticipated Total Debt Service	Projected Year End Balance	Anticipated GR Draw	Biennium GR Draws
2008	56,570,000	59,765,000	-	116,335,000	-	7,781,913	(7,781,913)	7,781,913	
2009	101,000,250	217,668,750	9,257,625	327,926,625	-	24,812,281	(24,812,281)	24,812,281	32,594,194
2010	48,750,000	390,000,000	2,437,500	441,187,500	12,948,764	70,027,617	(57,078,853)	57,078,853	
2011	48,750,000	390,000,000	2,437,500	441,187,500	46,117,198	109,893,617	(63,776,419)	63,776,419	120,855,272
2012	24,375,000	97,500,000	2,437,500	124,312,500	73,679,617	122,059,125	(48,379,508)	48,379,508	
2013	24,375,000	97,500,000	2,437,500	124,312,500	81,526,963	132,722,450	(51,195,488)	51,195,488	99,574,996
2014	24,375,000	97,500,000	2,437,500	124,312,500	88,842,227	143,734,050	(54,891,823)	54,891,823	
2015	24,375,000	97,500,000	2,437,500	124,312,500	96,362,503	154,944,575	(58,582,073)	58,582,073	113,473,896
2016	-	-	-	-	103,342,518	155,479,875	(52,137,357)	52,137,357	
2017	-	-	-	-	103,630,398	155,492,900	(51,862,502)	51,862,502	103,999,860
2018	-	-	-	-	103,618,919	151,479,600	(47,860,681)	47,860,681	
2019	-	-	-	-	104,316,093	152,173,025	(47,856,932)	47,856,932	95,717,614
2020	-	-	-	-	116,264,881	154,175,625	(37,910,744)	37,910,744	
2021	-	-	-	-	126,651,752	156,650,050	(29,998,298)	29,998,298	67,909,043
2022	-	-	-	-	132,517,247	156,634,325	(24,117,078)	24,117,078	
2023	-	-	-	-	135,520,441	156,633,350	(21,112,910)	21,112,910	45,229,988
2024	-	-	-	-	138,445,621	156,630,225	(18,184,604)	18,184,604	
2025	-	-	-	-	141,373,437	156,624,550	(15,251,114)	15,251,114	33,435,718
2026	-	-	-	-	144,297,879	156,619,700	(12,321,821)	12,321,821	
2027	-	-	-	-	144,365,790	156,627,875	(12,262,086)	12,262,086	24,583,907
2028	-	-	-	-	144,354,424	156,627,838	(12,273,415)	12,273,415	-
2029	-	-	-	-	141,747,005	118,398,725	23,348,280	-	12,273,415
2030	-	-	-	-	111,305,678	80,535,950	54,118,008	-	
2031	-	-	-	-	73,108,525	42,667,525	84,559,008	-	-
2032	-	-		-	39,665,975	31,996,075	92,228,908	-	
2033	-	-		-	29,752,725	21,328,450	100,653,183	-	-
2034	-	-		-	19,838,200	10,655,500	109,835,883	-	
2035	-	-		-	9,927,900	-	119,763,783	-	-
2036	-	-		-	-	-	119,763,783	-	
	$352,570,250	$1,447,433,750	$23,882,625	$1,823,886,625	$2,463,522,678	$3,093,406,797	$ -	$749,647,903	$749,647,903

State Water Plan
EDAP
Projected Cash Flows for Debt issued FY2008-FY2015

FY	Anticipated EDAP Grants Funded with Bond Proceeds	Anticipated Rural Grants Funded with Bond Proceeds	TOTAL	FY	Anticipated Total Debt Service	Projected Year End Balance	Anticipated GR Draw	Biennium GR Draws
2008	-	-	-	2008	-	-	-	
2009	27,261,000	9,257,625	36,518,625	2009	2,958,214	(2,958,214)	2,958,214	2,958,214
2010	14,625,000	2,437,500	17,062,500	2010	4,513,312	(4,513,312)	4,513,312	
2011	14,625,000	2,437,500	17,062,500	2011	5,981,162	(5,981,162)	5,981,162	10,494,474
2012	14,625,000	2,437,500	14,625,000	2012	7,446,287	(7,446,287)	7,446,287	
2013	14,625,000	2,437,500	14,625,000	2013	8,912,037	(8,912,037)	8,912,037	16,358,324
2014	14,625,000	2,437,500	14,625,000	2014	10,381,487	(10,381,487)	10,381,487	
2015	14,625,000	2,437,500	14,625,000	2015	11,842,437	(11,842,437)	11,842,437	22,223,924
2016	-	-	-	2016	11,925,945	(11,925,945)	11,925,945	
2017	-	-	-	2017	11,929,120	(11,929,120)	11,929,120	23,855,066
2018	-	-	-	2018	11,926,345	(11,926,345)	11,926,345	
2019	-	-	-	2019	11,922,070	(11,922,070)	11,922,070	23,848,416
2020	-	-	-	2020	11,915,470	(11,915,470)	11,915,470	
2021	-	-	-	2021	11,920,720	(11,920,720)	11,920,720	23,836,191
2022	-	-	-	2022	11,916,170	(11,916,170)	11,916,170	
2023	-	-	-	2023	11,916,270	(11,916,270)	11,916,270	23,832,441
2024	-	-	-	2024	11,919,645	(11,919,645)	11,919,645	
2025	-	-	-	2025	11,919,920	(11,919,920)	11,919,920	23,839,566
2026	-	-	-	2026	11,920,995	(11,920,995)	11,920,995	
2027	-	-	-	2027	11,926,495	(11,926,495)	11,926,495	23,847,491
2028	-	-	-	2028	11,941,958	(11,941,958)	11,941,958	-
2029	-	-	-	2029	8,778,775	(8,778,775)	8,778,775	20,720,733
2030	-	-	-	2030	7,316,725	(7,316,725)	7,316,725	
2031	-	-	-	2031	5,852,975	(5,852,975)	5,852,975	13,169,700
2032	-	-	-	2032	4,385,825	(4,385,825)	4,385,825	
2033	-	-	-	2033	2,918,850	(2,918,850)	2,918,850	7,304,675
2034	-	-	-	2034	1,450,625	(1,450,625)	1,450,625	
2035	-	-	-	2035	-	-	-	1,450,625
2036	-	-	-	2036	-	-	-	
	$115,011,000	$23,882,625	$129,143,625		$237,739,839		$237,739,839	$237,739,839

State Water Plan
State Participation
Projected Cash Flows for Debt Issued FY2008-FY2015

FY	State Participation Loan Disbursement	Beginning Balance	Anticipated Loan Repayments	Anticipated Debt Service	Projected Year End Balance	Anticipated GR Draw	Biennium GR Draws
2008	-	-	-	-	-	-	
2009	165,750,000	-	-	8,570,833	(8,570,833)	8,570,833	8,570,833
2010	73,125,000	-	-	13,131,250	(13,131,250)	13,131,250	
2011	73,125,000	-	-	17,256,250	(17,256,250)	17,256,250	30,387,500
2012	24,375,000	-	1,939,275	18,860,417	(16,921,142)	16,921,142	
2013	24,375,000	-	2,794,838	20,235,417	(17,440,579)	17,440,579	34,361,721
2014	24,375,000	-	4,620,038	21,610,417	(16,990,379)	16,990,379	
2015	24,375,000	-	6,302,644	22,985,417	(16,682,773)	16,682,773	33,673,152
2016	-	-	8,897,850	23,100,000	(14,202,150)	14,202,150	
2017	-	-	11,849,541	23,100,000	(11,250,459)	11,250,459	25,452,609
2018	-	-	15,157,716	23,100,000	(7,942,284)	7,942,284	
2019	-	-	21,166,141	23,100,000	(1,933,859)	1,933,859	9,876,143
2020	-	-	27,156,742	23,100,000	4,056,742	-	
2021	-	4,056,742	31,028,162	23,100,000	11,984,904	-	-
2022	-	11,984,904	33,514,047	23,100,000	22,398,951	-	
2023	-	22,398,951	34,970,880	23,100,000	34,269,831	-	-
2024	-	34,269,831	36,213,822	23,100,000	47,383,652	-	
2025	-	47,383,652	37,242,873	23,100,000	61,526,526	-	-
2026	-	61,526,526	37,650,454	23,100,000	76,076,979	-	
2027	-	76,076,979	37,650,454	23,100,000	90,627,433	-	-
2028	-	90,627,433	37,650,454	30,685,000	97,592,887	-	
2029	-	97,592,887	42,083,907	34,032,825	105,643,968	-	-
2030	-	105,643,968	41,268,125	37,378,575	109,533,519	-	
2031	-	109,533,519	42,000,550	38,495,975	113,038,094	-	-
2032	-	113,038,094	41,425,251	39,610,575	114,852,770	-	
2033	-	114,852,770	41,668,377	40,721,600	115,799,547	-	-
2034	-	115,799,547	41,913,041	41,838,000	115,874,589	-	
2035	-	115,874,589	42,157,223	41,837,900	116,193,912	-	-
2036	-	116,193,912	41,751,190	41,845,750	116,099,352	-	
2037	-	116,099,352	41,749,055	41,847,150	116,001,257	-	-
2038	-	116,001,257	41,753,850	41,848,250	115,906,857	-	
2039	-	115,906,857	41,755,310	41,844,650	115,817,517	-	-
2040	-	115,817,517	41,748,463	41,841,950	115,724,029	-	
2041	-	115,724,029	41,748,335	41,840,200	115,632,164	-	-
2042	-	115,632,164	41,748,785	41,834,175	115,546,774	-	
2043	-	115,546,774	41,748,670	24,908,650	132,386,794	-	-
2044	-	132,386,794	24,841,555	17,438,450	139,789,899	-	
2045	-	139,789,899	17,389,655	9,968,650	147,210,904	-	-
2046	-	147,210,904	9,945,455	7,478,225	149,678,134	-	
2047	-	149,678,134	7,459,723	4,988,350	152,149,507	-	-
2048	-	152,149,507	4,974,820	2,495,075	154,629,252	-	
2049	-	154,629,252	2,487,475	-	157,116,727	-	-
2050	-	157,116,727	-	-	157,116,727	-	
	$409,500,000		$1,079,424,743	$1,064,629,975		$142,321,959	$142,321,959

Exceptional Items

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Economically Distressed Areas Program		
	Item Priority: 1		
	Includes Funding for the Following Strategy or Strategies: 02-01-01 State and Federal Financial Assistance Programs		
	02-01-02 Economically Distressed Areas Program		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	55,000	247,500
2001	PROFESSIONAL FEES AND SERVICES	15,000	10,000
2005	TRAVEL	6,000	7,500
2009	OTHER OPERATING EXPENSE	3,400	15,300
4000	GRANTS	1,000,000	1,000,000
	TOTAL, OBJECT OF EXPENSE	**$1,079,400**	**$1,280,300**
METHOD OF FINANCING:			
1	General Revenue Fund	1,079,400	1,280,300
	TOTAL, METHOD OF FINANCING	**$1,079,400**	**$1,280,300**
FULL-TIME EQUIVALENT POSITIONS (FTE):		1.00	4.50

DESCRIPTION / JUSTIFICATION:

The 71st legislative session (1989) created the Economically Distressed Areas Program (EDAP) to provide financial assistance in the form of grants and loans for water-related services to economically distressed areas. The program includes measures to prevent future substandard development, specifically the requirement that all recipients' county or city adopt Model Subdivision Rules, as legally applicable. As of March the EDAP has funded 94 projects in 22 counties, totaling approx. $535 million. An estimated 270,000 residents will have adequate water-related services because of these projects. The EDAP was initially funded with $250 million in general obligation bonds and $300 million in EPA grants. The 79th legislature passed HB 467 that changed the definition of an affected county to any county that had an economically distressed area. Essentially, this bill changed the EDAP to a state-wide program. The 80th legislature passed SJR 20 and in November 2007 voters passed a $250 million bond election.

This expanded program requires an additional one FTE in FY2010 and 4.5 FTEs in FY2011 to provide basic technical assistance, training, oversight, adequate customer service, and coordination activities associated with the program (inspection, project and program management, auditing). Two million in grants for Facility Planning efforts is also included in the request, in addition to $18,700 in other operating expenses that reflect computers, office furniture, and new employee set up costs.

The funds are needed to provide funding for the pending 16 applications (as of May 15, 2008) for project planning, acquisition and design costs. These applications represent over $200 million in construction phase costs that will be required once the planning, acquisition and design phases are complete. Additional applications are also anticipated to be received shortly based on the high volume of pre-application conferences being held.

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

Should appropriations for program funds not be approved projects in economically distressed areas would be delayed or not funded. Projects that previously received planning, acquisition and design funding would not have EDAP grant/loan funding available to them to begin and complete construction. Staff to adequately administer existing and new projects is also needed otherwise staff working on other programs matters would have to reallocate their time to work on these matters.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

Item Name: State Water Plan Debt Service - Measures Only
Item Priority: 2
Includes Funding for the Following Strategy or Strategies: 02-01-01 State and Federal Financial Assistance Programs

DESCRIPTION / JUSTIFICATION:

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Federal Regulatory Support		
	Item Priority: 3		
	Includes Funding for the Following Strategy or Strategies: 02-01-01 State and Federal Financial Assistance Programs		
	02-01-02 Economically Distressed Areas Program		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	80,000	80,000
2001	PROFESSIONAL FEES AND SERVICES	180,000	180,000
2003	CONSUMABLE SUPPLIES	520	200
2004	UTILITIES	950	600
2005	TRAVEL	2,000	2,000
2009	OTHER OPERATING EXPENSE	6,600	2,100
	TOTAL, OBJECT OF EXPENSE	**$270,070**	**$264,900**
METHOD OF FINANCING:			
1	General Revenue Fund	270,070	264,900
	TOTAL, METHOD OF FINANCING	**$270,070**	**$264,900**
FULL-TIME EQUIVALENT POSITIONS (FTE):		1.00	1.00

DESCRIPTION / JUSTIFICATION:

Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged or fill material into the waters of the United States. Activities in waters of the U.S. regulated under this program include fill for development, water resources projects, infrastructure development and mining projects. Section 404 requires a permit before a project may proceed, unless the activity is exempt from Section 404 regulation (e.g., certain farming activities). The U.S. Army Corps of Engineers (USACE) administers the permitting program, with review by the U.S. Environmental Protection Agency.

The number of permit applications awaiting action in the territory covered by the USACE Southwestern Division (covering most of Texas) has grown from about 800 a year ago to somewhere near 3,000 as of May 2008. Meanwhile, respective regulatory staffing has decreased. In addition, as a result of a recent Supreme Court decision related to the definition and regulation of "waters of the U.S.", greater uncertainty exists in how USACE should act on permit applications. USACE regulatory documentation requirements and staff workload have increased significantly, likely adding greatly to the huge backlog of pending regulatory actions.

TWDB proposes entering into an agreement with USACE, under Section 214 of the Water Resources Development Act of 2000, to pay for USACE to hire a dedicated regulator to focus on permit applications associated with water resources projects identified by TWDB. In addition, TWDB proposes to hire an FTE at the TWDB Austin office to provide technical assistance to stakeholders and to coordinate regulatory activities with federal, state and local regulators. These resources will enable TWDB to achieve performance measures targets in addition to the impacts of the issues described above. These resources will provide invaluable customer service and technical assistance on an issue of great frustration to TWDB stakeholders.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

EXTERNAL/INTERNAL FACTORS:

In addition to this exceptional item request, TWDB has submitted a federal appropriations request to the Texas congressional delegation to increase the USACE regulatory budget by $540,000, specifically to hire three regulators in Texas.

USACE has entered into Section 214 agreements with other non-federal entities, and TWDB's agreement will be modeled after similar actions.

TWDB has also been working closely with USACE and other federal and state regulatory entities to conduct public workshops on the federal and state permitting processes. Currently, the group is developing actions to potentially streamline the permitting process, specifically in terms of the communication and coordination conducted amongst the various regulatory entities.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Groundwater Science for Groundwater Management		
	Item Priority: 4		
	Includes Funding for the Following Strategy or Strategies: 01-02-01 Technical Assistance and Modeling		
	01-02-02 Water Resources Planning		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	690,000	690,000
2001	PROFESSIONAL FEES AND SERVICES	3,338	3,338
2005	TRAVEL	30,000	30,000
2009	OTHER OPERATING EXPENSE	60,525	21,750
4000	GRANTS	1,100,000	1,100,000
	TOTAL, OBJECT OF EXPENSE	**$1,883,863**	**$1,845,088**
METHOD OF FINANCING:			
1	General Revenue Fund	1,883,863	1,845,088
	TOTAL, METHOD OF FINANCING	**$1,883,863**	**$1,845,088**
FULL-TIME EQUIVALENT POSITIONS (FTE):		7.50	7.50

DESCRIPTION / JUSTIFICATION:

Groundwater is Texas's primary source of water, providing 59 percent of all the water used in the state. A critical question for groundwater users, managers, and planners is: How much groundwater is available for use? With the advent of regional water planning in 1997, the explosive growth of groundwater conservation districts (in 1990 there were 22; now there are 95), and the focus of joint planning in groundwater management areas on desired future conditions, the question of how much groundwater is available for use has become even more critical. The answer to the question—How much groundwater is available for use?—requires data, analysis, and the development and enhancement of groundwater availability models. To address the need for more information, analysis, and modeling for groundwater in Texas, TWDB proposes to (1) study the brackish groundwater resources of the state ($949,650 for the biennium [$500,000 in grants]; 2.5 FTEs), (2) study the minor aquifers of Texas—a resource of growing importance ($359,720 for the biennium; 2 FTEs), (3) aggressively update the groundwater availability models ($1,539,580 for the biennium [$1,000,000 in grants]; 3 FTEs), (4) increase salaries to retain and recruit groundwater modelers ($180,000 for the biennium), (5) develop the capability of developing three-dimensional visual tools of the state's aquifer ($200,000 for the biennium in grants), and (6) study the effects of natural and anthropogenic-influenced water quality on fresh groundwater quantity ($500,000 for the biennium in grants). Funding of this exceptional item will ensure the best information on the state's minor aquifers, brackish groundwater resources, groundwater modeling and monitoring, and groundwater educational tools.

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

In 1990, there were 22 groundwater conservation districts; there are now 95. This alone has resulted in a four-fold increase in the demand for technical assistance and technical information for groundwater management. In addition, with the passage of House Bill 1763 by the 79th Legislature, there is an even greater demand for technical information and assistance given the greater importance of groundwater regulation and its effects on water planning and where the state will get its water in the future. Based on our internal and external assessments for our strategic planning and testimony given by stakeholders to the legislature, we have proposed this exceptional item. It will assist us in providing technical assistance to help groundwater conservation districts meet the requirements in House Bill 1763.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Advancing Water Conservation in Texas		
	Item Priority: 5		
	Includes Funding for the Following Strategy or Strategies: 01-02-02 Water Resources Planning		
	01-03-01 Water Conservation Education and Assistance		
OBJECTS OF EXPENSE:			
2001	PROFESSIONAL FEES AND SERVICES	3,100,000	3,100,000
2005	TRAVEL	7,500	7,500
2009	OTHER OPERATING EXPENSE	10,000	10,000
4000	GRANTS	250,000	250,000
	TOTAL, OBJECT OF EXPENSE	**$3,367,500**	**$3,367,500**
METHOD OF FINANCING:			
1	General Revenue Fund	3,367,500	3,367,500
	TOTAL, METHOD OF FINANCING	**$3,367,500**	**$3,367,500**

DESCRIPTION / JUSTIFICATION:

The 2007 State Water Plan includes an increased emphasis on utilization of water conservation strategies to help meet the future needs for additional water supplies. The 80th Legislature approved legislation which included a number of new water conservation initiatives for implementation by the TWDB. The TWDB has implemented these activities within the limits of funding provided for Fiscal Years 2008-2009. This exceptional item requests funds to expand these activities to the level necessary to fully implement provisions of this legislation. Included in this item are three components:

1. TWDB staff is required to provide staff support for the Water Conservation Advisory Council. This request includes increased funding for TWDB support of the Council to provide web site maintenance, printing, and any necessary consultant studies. Total for this component is $110,000 annually.

2. The mission of the Texas Water Development Board's statewide water conservation public awareness program is to educate Texans about the importance of water conservation and motivate Texans to develop a long-term water conservation ethic. Requested funding is for stakeholder research, TWDB educational materials, literature, public events, development of media materials, and purchase of media services for a statewide water conservation public awareness program. The comprehensive public awareness program strategy consists of implementation of a balanced, umbrella statewide communication mix by leveraging the funding to create added-value support for outreach programs. Total for this component is $3,007,500 annually.

3. The 79th Legislature established the Texas Rainwater Harvesting Committee. This committee submitted a report to the 80th Legislature and requested an appropriation to provide matching grants to local political subdivisions for rainwater harvesting projects. This item would provide $250,000 annually in matching grant funding which was not provided in Fiscal Years 2008-2009.

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name:

Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

In 2004, the Water Conservation Implementation Task Force recommended the creation of a statewide water conservation public awareness program and creation of a Water Conservation Advisory Council. The 80th Legislature authorized these programs but did not provide adequate financial support for full implementation. There is considerable public and utility support for full implementation.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Enhancing Recharge to the Ogallala Aquifer		
	Item Priority: 6		
	Includes Funding for the Following Strategy or Strategies: 01-02-01 Technical Assistance and Modeling		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	80,000	80,000
2001	PROFESSIONAL FEES AND SERVICES	100,000	100,000
2005	TRAVEL	8,000	8,000
2009	OTHER OPERATING EXPENSE	223,515	218,345
	TOTAL, OBJECT OF EXPENSE	**$411,515**	**$406,345**
METHOD OF FINANCING:			
1	General Revenue Fund	411,515	406,345
	TOTAL, METHOD OF FINANCING	**$411,515**	**$406,345**
FULL-TIME EQUIVALENT POSITIONS (FTE):		1.00	1.00

DESCRIPTION / JUSTIFICATION:

This project is the continuation of a project designed to identify and investigate modifying playas in order to increase recharge to the Ogallala aquifer. Phase I involved surface water modeling and monitoring infiltration, in the near surface soils, of SCS flood retention structures in Hale County. The infiltration could eventually lead to aquifer recharge. In Phase II we used remote sensing data to classify playas potentially suitable to help recharge the Ogallala aquifer due to their soil types and geologic structure. In the proposed Phase III, up to 30 playas—identified in Phase II as being good candidates for enhancing recharge—would be monitored for climatic and hydrogeologic parameters over the course of two years. In the second year of monitoring, selected playas would serve as test cases for field-scale studies on playa modification techniques for enhancing aquifer recharge. The local groundwater conservation districts will partner with the TWDB to provide $50,000 of in-kind services annually to assist field personnel with equipment installation and monitroing. This exceptional item will better position Texas for responding to future water resource needs and meeting future water demands.

EXTERNAL/INTERNAL FACTORS:

Federal legislation changed in 2008 to support Texas in our efforts to research enhancing aquifer recharge in the High Plains playas. TWDB began studying recharge enahncement in 1999, and completed Phases I and II of the study in 2003. Phase III was originally blocked in 2004 due to Federal legislation—called Swampbuster provision of the Farm Security Act of 1985—preventing landowners from eligibility for receiving farm program benefits if they participate in converting a wetland to enhance recharge or plant crops on converted wetlands. In 2008 that legislation has been modified specifically to address Texas research needs.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Senate Bill 3 (80th Legislature) Enviromental Flows		
	Item Priority: 7		
	Includes Funding for the Following Strategy or Strategies: 01-01-01 Collection, Analysis and Reporting of Environmental Impact Information		
	01-01-02 Water Resources Data		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	107,517	107,517
2003	CONSUMABLE SUPPLIES	345	345
2005	TRAVEL	1,600	500
2009	OTHER OPERATING EXPENSE	2,990	2,990
4000	GRANTS	207,500	132,500
	TOTAL, OBJECT OF EXPENSE	**$319,952**	**$243,852**
METHOD OF FINANCING:			
1	General Revenue Fund	319,952	243,852
	TOTAL, METHOD OF FINANCING	**$319,952**	**$243,852**
FULL-TIME EQUIVALENT POSITIONS (FTE):		1.00	1.00

DESCRIPTION / JUSTIFICATION:

TWDB is directed to provide technical support and contract services in support of the Senate Bill 3 (80th Legislature) Article 1 (Environmental Flows) process. TWDB will work with the Science Advisory Committee, the Environmental Flows Advisory Group, the Bay-Basin Area Stakeholders and the Bay-Basin Expert Science Teams to provide information related to the existing instream flow and freshwater inflow programs. Furthermore, staff will be requested to conduct analyses of existing data to help the various groups make environmental flow recommendations. The schedule of Senate Bill 3 activities included in the legislation calls for a gradual ramping up of activities from FY08 through FY11, with a slight decline occurring thereafter as the various groups work on environmental flow recommendations for the priority basins identified in statute. Four FTE's were provided for the TWDB in the 08/09 biennium. One additional FTE was included for FY10 and FY11 in the approved LBB fiscal note. Other costs are mostly associated with the travel and time of the members of the Science Advisory Committee and Bay-Basin Expert Science Teams.

EXTERNAL/INTERNAL FACTORS:

The strategic plan promotes growth and efficiency within the agency. Lack of funds will severely hamper the agency's ability to support the projected increase in activities outlined in Article 1 of Senate Bill 3. By Fiscal Year 2010, stakeholder groups and expert scientists will be working in five major river basin and bay areas, a significant increase from the two in which work is about to begin.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: TNRIS Data Services		
	Item Priority: 8		
	Includes Funding for the Following Strategy or Strategies: 01-01-03 Automated Information Collection, Maintenance, and Dissemination		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	195,850	195,850
2009	OTHER OPERATING EXPENSE	29,500	3,400
	TOTAL, OBJECT OF EXPENSE	**$225,350**	**$199,250**
METHOD OF FINANCING:			
1	General Revenue Fund	225,350	199,250
	TOTAL, METHOD OF FINANCING	**$225,350**	**$199,250**
FULL-TIME EQUIVALENT POSITIONS (FTE):		5.00	5.00

DESCRIPTION / JUSTIFICATION:

TNRIS provides support for public inquiries and requests for maps and data from the state's geographic infomation clearinghouse. TNRIS is experiencing an increase in the number of external requests and anticipates an acceleration of this trend due to new statewide data collections as well as broadened authority to support emergency management data services. Approximately 600 person hours are required in a typical month to handle upwards of 500 inquiries and contacts which equates to 4.0 FTE's. In addition to the existing workload, TNRIS anticipates increased inquires and requests related to the National Flood Insurance Program mapping efforts including acquisition of a complete statewide aerial imagery update and development of new land surface elevation products. This public service role is important to enable customers to receive the full value of the data, maps and photography that covers the entire state and border regions and is currently provided by 1 FTE and various interns. An additional 3 FTE's will be needed to eliminate the need to use interns with intermittant schedules and a high turnover rate to provide an environment of consistence service, decreased need for supervisor support, and provision of appropriate services.

In addition, HB 622, 79th Legislative Session, assigned TNRIS with authority to collect and manage emergency management related geographic data without appropriating funds. Through this authorization, TNRIS supports the State Homeland Security Plan and on-demand requirements related to natural disasters including hurricanes, wildfires, and other emergencies. Current support for these activities are funded through grants which are set to expire December 31, 2008. To continue this support, new appropriations are required to fund an additional 2 FTE's.

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

Increases in public use and familiarity of internet based mapping is increasing demand for data and services from TNRIS. The NFIP Mapping Program data requirements will nearly double the quantity of data being collected in support of this program which will increase public requests for map and technical assistance. The NFIP Community Assistance Program has been transferred to the TWDB and will drive increased demand for locally coordinated data and map products. TNRIS support provided to GDEM in the form of specialized and experienced geographic data services limits the need for expenditures by GDEM to attempt to replicate these skills. GDEM has provided grant funding to establish these skills and has established an ongoing reliance on these services. These type of data and analysis require more technical support due to their high technology sensor system and understanding of complex processing required to generate public data products. A new map and data request fulfillment system is required to serve base data and finished map products.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Flood Protection Planning Grants		
	Item Priority: 9		
	Includes Funding for the Following Strategy or Strategies: 01-02-02 Water Resources Planning		
OBJECTS OF EXPENSE:			
4000	GRANTS	1,000,000	1,000,000
	TOTAL, OBJECT OF EXPENSE	**$1,000,000**	**$1,000,000**
METHOD OF FINANCING:			
1	General Revenue Fund	1,000,000	1,000,000
	TOTAL, METHOD OF FINANCING	**$1,000,000**	**$1,000,000**

DESCRIPTION / JUSTIFICATION:

Historically, floods are one of the most frequently occurring, destructive and costly natural hazards facing Texas, constituting over 90% of the disaster damage that has been experienced in the state. Moreover, the statistical probability exists that a greater flood could occur in any given area than which has occurred in the past. This exceptional item proposes to increase available grant funding for flood protection planning to eligible communities from the current $1,000,000 by an additional $1,000,000, to a maximum yearly available grant funding amount of $2,000,000. Flood protection planning grants were established in 1983 as part of the Research and Planning Fund created by the 67th Legislature and financed out of the Water Assistance Fund. This funding assistance has enabled communities to study and analyze flooding hazards within their jurisdiction and develop technically feasible and cost effective flood mitigation measures to address those flood hazards. Through flood protection planning grants, the State and TWDB have been able to partner with communities in the form of the 50/50 cost share grants (or 75 percent state share for those applicants which meet the Economically Disadvantaged requirements) to assist in the analysis of flood hazards and the evaluation of structural and non-structural flood mitigation alternatives. In 2006, the funding availability for flood protection planning grants increased from $600,000 to $1,000,000, following five straight years of receiving funding requests of over $1.2 million each year. Funding requests have continued to increase; from $1.35 million in 2006, to $2.14 million in 2007, and to $4.07 million in 2008 received from 19 communities (the most applications and funding requests ever received). If funded, this exceptional item will allow grant assistance to additional jurisdictions, funding assistance vital to communities to study flooding within their area and to develop measures which will mitigate flooding.

EXTERNAL/INTERNAL FACTORS:

There were numerous unfunded applications the past few years for flood protection planning requests, due to lack of funding available. There were 19 applications submitted in 2007 but funding availability only allowed the grant awards for five of the applications. For 2006 there were 15 applications submitted of which we were able to fund 6. Increase of available funding from $1,000,000 to $2,000,000 for flood protection planning grants will allow the ability to fund more requests for grant assistance. An internal factor which would result would be an increase of grant contracts to manage and administer.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

Item Name: State Participation Debt Service - Measures Only

Item Priority: 10

Includes Funding for the Following Strategy or Strategies: 02-01-01 State and Federal Financial Assistance Programs

DESCRIPTION / JUSTIFICATION:

EXTERNAL/INTERNAL FACTORS:

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Support for Study Commission on Region C Water Supply Activities		
	Item Priority: 11		
	Includes Funding for the Following Strategy or Strategies: 01-02-02 Water Resources Planning		
OBJECTS OF EXPENSE:			
4000	GRANTS	2,000,000	0
	TOTAL, OBJECT OF EXPENSE	**$2,000,000**	**$0**
METHOD OF FINANCING:			
1	General Revenue Fund	2,000,000	0
	TOTAL, METHOD OF FINANCING	**$2,000,000**	**$0**

DESCRIPTION / JUSTIFICATION:

Senate Bill 3, 80th Legislative Session, created the Study Commission on Region C Water Supply and directed TWDB to assist with the development of the scope of work. Required tasks include: Alternative water supplies for Region C, Socioeconomic impact of alternatives, Conservation and reuse measures to postpone need, Mitigation requirements, Methods of compensating affected property owners, Minimum surface acres required for proposed reservoirs, and Location of proposed reservoirs. The scope of work being recommended to the full Study Commission will carry a cost far in excess of what can be funded from the current TWDB budget for regional planning.

EXTERNAL/INTERNAL FACTORS:

Study Commission on Region C Water Supply required by Senate Bill 3, 80th Legislative Session. Internal resources are strained by the expanding scope of this task.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011
	Item Name: Seawater Desalination Initiative		
	Item Priority: 12		
	Includes Funding for the Following Strategy or Strategies: 02-01-01 State and Federal Financial Assistance Programs		
OBJECTS OF EXPENSE:			
4000	GRANTS	13,600,000	14,600,000
	TOTAL, OBJECT OF EXPENSE	**$13,600,000**	**$14,600,000**
METHOD OF FINANCING:			
1	General Revenue Fund	13,600,000	14,600,000
	TOTAL, METHOD OF FINANCING	**$13,600,000**	**$14,600,000**

DESCRIPTION / JUSTIFICATION:

Texas Water Code §16.060 directs the Texas Water Development Board (TWDB) to take the necessary actions to further the development of cost-effective water supplies from seawater desalination in the state. Additionally, it requires TWDB to issue a biennium progress report and anticipated actions that should be addressed over the following biennium. The report is due on December 1 2008.

The present request will enable TWDB and the Brownsville Public Utilities Board (B-PUB) to install a 2.5 million gallon per day permanent production facility that would allow it to fully demonstrate and continue finessing the process of desalting ocean water from the Brownsville ship channel. This proposal would not only provide a direct benefit to the B-PUB, giving it access to a drought proof water source, but it would provide continuity to the state's interest in identifying and addressing risks and challenges related to the wide-scale development of seawater desalination supplies.

EXTERNAL/INTERNAL FACTORS:

The Brownsville pilot study has now provided enough data for the B-PUB to update the capital cost estimate for the project. B-PUB estimates the capital cost of a 25 million gallon per day facility located at the Port of Brownsville is in the order of $170 million.

A substantial portion of the project's cost is due to the intake and pre-treatment systems to ensure a more efficient performance of the reverse osmosis desalination process.

The proposed demonstration project is a sound next step that provides a useful deliverable and the means to continue improving the economics of the project and its fundability.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION			Excp 2010	Excp 2011
	Item Name:	Climate Variability and the Water Resources of Texas			
	Item Priority:	13			
	Includes Funding for the Following Strategy or Strategies:	01-01-02	Water Resources Data		
		01-02-01	Technical Assistance and Modeling		
		01-02-02	Water Resources Planning		
OBJECTS OF EXPENSE:					
1001	SALARIES AND WAGES			640,000	640,000
2001	PROFESSIONAL FEES AND SERVICES			3,560	3,560
2005	TRAVEL			32,000	32,000
2009	OTHER OPERATING EXPENSE			64,560	143,200
4000	GRANTS			2,327,379	2,099,294
5000	CAPITAL EXPENDITURES			600,000	600,000
	TOTAL, OBJECT OF EXPENSE			**$3,667,499**	**$3,518,054**
METHOD OF FINANCING:					
1	General Revenue Fund			3,667,499	3,518,054
	TOTAL, METHOD OF FINANCING			**$3,667,499**	**$3,518,054**
FULL-TIME EQUIVALENT POSITIONS (FTE):				8.00	8.00

DESCRIPTION / JUSTIFICATION:

Many Texans are concerned about how climate variability may affect our water resources. All of the climate models used by the Intergovernmental Panel on Climate Change project increased temperatures for Texas, and most of the models predict an overall drier climate for Texas with the likelihood of more rainfall in the wetter, eastern part of the state and less rainfall in the drier, western part of the state. Climate scientists expect more climatic variability—more of the rainfall occurring in the wetter seasons and more rainfall focused in fewer events—and increases in the number of droughts. The goal of this exceptional item is to (1) assess past and predicted climate variability ($700,000 in contracts for the biennium); (2) assess potential impacts to Texas's groundwater resources, surface water resources, and water demand ($1,039,580 for the biennium [$500,000 in grants to the regional water planning groups]; 3 FTEs); (3) improve general data collection on surface water and groundwater resources, evapotranspiration, and water use ($4,086,253 for the biennium [$2,226,673 in grants and $720,000 in equipment]; 3 FTEs); and (4) support innovative water technologies such as desalination, water reuse, and other emerging technologies—technologies that will help mitigate water supply issues beyond those that would be experienced in a repeat of the drought of record (the worst drought in the last 100 years) ($1,359,720 for the biennium [$1,000,000 in grants]; 2 FTEs). Climate has changed in the past and will change in the future, with or without the influence of humans. This exceptional item will better position Texas for responding to climate variability and meeting future water demands.

EXTERNAL/INTERNAL FACTORS:

A number of our stakeholders have asked us to consider climate variability in our assessments of the state's water resources and water planning activities. Understanding and considering climate change for Texas is one of the internal factors identified in our strategic planning process.

Agency code: 580 Agency name: Water Development Board

CODE	DESCRIPTION	Excp 2010	Excp 2011

JOINT INTERIM COMMITTEE ON WATER FUNDING OCTOBER 21, 2008

Good morning Members. I appreciate the opportunity to be with you today and to continue our dialogue on how we should address the funding needs for the state's water program.

This morning I will briefly highlight several of the significant issues that I previously discussed in the two earlier joint interim hearings. I will then discuss the current funding structure and the challenges it presents to administer and fund the various activities associated with the state's water program. Finally, I will summarize the agency's water funding needs for the next biennium, as it has been addressed in the TCEQ's Legislative Appropriations Request, or LAR for the '10-'11 biennium.

BACKGROUND

As mentioned in the previous joint interim hearings, the TCEQ is primarily a fee funded agency. In FY '08-'09, approximately 88% of the agency's funds were from monies collected from the fees we assess.

The primary account to support the agency's water programs is the Water Resource Management Account #153. Over the last couple of bienniums the Legislature has been appropriating fund balances from this account to the TCEQ to off-set decreases in General Revenue to the agency. As a result, for the upcoming biennium the fund balances in Account #153 will be depleted.

As a reminder, historically the TCEQ received up to $50 million in General Revenue for a biennium and up to 98% of that General Revenue was used to supplement the agency's water program.

If the current level of funding for the agency's water program is to continue into the '10-'11 biennium, the amount of General Revenue the agency receives will have to increase and/or the amount of revenue deposited to Account #153 will have to increase.

FUNDING STRUCTURE/CHALLENGES

As we advance the discussion on how to address the shortfall in Account #153, as well as the funding needs in the '10-'11 biennium, I believe it would be helpful to give a brief history on how the state's water program is funded.

When TCEQ went through sunset in 2001, the Legislature determined that water-related fees collected by the agency would, for the most part, be deposited to the Water Resource Management Account #153.

The language in the sunset bill provided statutory authority that revenues deposited to that account would be available to the Legislature and the TCEQ to support activities associated with ensuring the quality and availability of the state's water.

Given this statutory authority, revenues deposited to account #153 have been used to support the varied activities associated with the state's water program(s). These activities include water rights, storm water, public drinking water, TMDL development, water utilities, dam safety, wastewater, river compacts, water availability modeling, water assessment, CAFOs, sludge and ground water protection.

Though most of these activities have a fee that can generally be associated with these activities, several do not, such as TMDLs, dam safety, river compacts, and ground water protection.

In these instances, as well as in addition to supporting the agency's overall water program, the statute authorizes the use of revenue deposited to Account #153.

This statutory authority recognizes that these water-related activities benefit people across the state and that the goal of protecting the state's water resource is an important one to every Texan.

Since the statutory language authorizes the use of these fee revenues for the broad purpose of protecting water quality, the responsibility of safeguarding this resource is primarily borne by fees deposited to Account #153, while General Revenue to supplement the water program has declined.

It is an on-going challenge to meet the demands of individual fee payers, while also addressing the overall needs of our water program.

FUTURE FUNDING NEEDS

What are the future funding needs for these state water program activities in the upcoming biennium? The agency's LAR maintains the current level of service.

TCEQ's LAR includes a request of approximately $106.7 million for the biennium from the Water Resource Management Account #153.

From a program perspective, this request reflects the status quo in the core water-related areas, other than a $3.3 million increase to expand water-related activities associated with field operations and information technology.

This requested level does not include any exceptional item requests.

The $106.7 million included in the LAR, though, is greater than the amount that is estimated to be available in the account during the 2010-2011 biennium.

If we receive the same amount of General Revenue that we received in '08-'09, we estimate a revenue shortfall of $40 million for the upcoming biennium.

A primary reason for the shortfall is the fact that the fund balances that had been supporting the appropriations made from Account #153 over the past two bienniums has now been depleted.

The TCEQ's LAR request from the Water Resource Management Account includes several changes to the internal funding structure at the agency.

Over the years, the water program has not shouldered its fair share of the indirect administrative costs for the agency. In our review of the agency's water program, it was determined that the LAR should represent a level of funding from Account #153 that moves toward a more accurate and equitable contribution towards the agency's indirect administrative costs.

The agency also took this opportunity to include a slight increase, $3.3 million, for a couple of existing initiatives. The total amount of these shifts and increases in funding is approximately $14.4 million in the biennium.

This amount, as well as the already expected shortfall due to depletion of the fund balance, are affecting the expected $40 million shortfall in Account #153 included in the agency's LAR for FY 2010 and 2011.

FUNDING OPTIONS

There are several options to address this shortfall. All these options are in addition to maintaining the current level of general revenue provided to the TCEQ:

- increase general revenue by an additional $20 million for both FY '10 and '11;
- increase general revenue by an additional $20 million for FY '10 only and increase fee revenue deposited to Account #153 in FY '11;
- increase fee revenue deposited to Account #153 by $20 million in both FY 10 and '11.

By rule, the TCEQ has the authority to increase several of the fees associated with Account #153. However, statutory changes by the 81st Legislature could provide direction regarding changes to the fee structure. Legislation could also address equity issues due to statutory caps currently in place for the most significant water-related fee assessed by the agency, the Consolidated Water Fee.

CONCLUSION

As we move to ensure that sufficient funds are available to manage and protect the state's water resources, we must also make certain that the collection of those funds is equitable and cost-efficient. Developing an overall funding structure that will appropriately support the state's water resources is a challenge that requires the efforts of many.

I look forward to working with you during the discussion of the TCEQ's appropriations for the 2010-2011 biennium to resolve the shortfall issue. This concludes my remarks and I am available to respond to any questions. Thank you.