



Chair, Rep. Garnet Coleman

Treasurer, Rep. Elliott Naishtat

Vice Chair, Rep. Lon Burnam

HB 4 Amendment Analysis—Wednesday, March 27, 2013

Author	Analysis	Recommendation
Rep. Ritter P. 2 830347	This perfecting amendment outlines specific duties for the board, the advisory committee and regional planners including covering their administrative costs, member positions, effective dates, and reporting requirements. No advisory committee members may be reimbursed except legislative members. It includes the rate a project reaches its intended population as criterion for prioritizing projects. Regarding funds, it adds details around monetary use and movement, where they're kept, and how they are designated. The amendment subjects funds to existing statutes, and it grants the board authority given in other laws applicable to board obligations like the issuance of bonds.	<u>Favorable</u>
Rep. Dutton P. 10 830361	This amendment adds language to ensure that all projects undertaken by the Water Development Board are in line with the state's annual goals of utilizing "historically underutilized businesses." The amendment also implements a review process for projects that fail to meet the state's level of participation standards.	<u>Favorable</u>
Rep. Simmons P. 12 830363	This amendment specifies that the intent of the legislature is for the fund to remain outside the treasury, and the fund will not be used for any projects other than the support of water infrastructure projects.	<u>Will of the House</u>
Rep. Taylor, V P. 13 830343	Restricts the allocation of rainy day funds to the state water implementation fund. The amendment asserts that an appropriation of rainy day funds towards the implementation fund would be ineffective.	<u>Unfavorable</u>
Rep. Taylor, V P. 14 830309	Updates the overall objective of the water implementation fund by distinguishing that the fund will strive to preserve the original purchasing power of the fund, adjusted for inflation. This amendment has the potential to add additional restrictions on the disbursement of monies from the water implementation fund.	<u>Unfavorable</u>

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<p>Rep. Taylor, V P. 15 830317</p>	<p>This amendment seeks to change the provision regarding management of the trust fund from, “the trust company has <i>any</i> power necessary” to “the trust company has <i>all</i> powers necessary” to accomplish the purposes of managing and investing the assets of the fund.</p>	<p><u>Will of the House</u></p>
<p>Rep. Taylor, V P. 16 830308</p>	<p>This amendment requires TWDB and the advisory committee to independently certify, at minimum, an annual investment policy that is consistent with the overall objective of the water implementation fund. The amendment also ensures that the board does not permit the trust company to make disbursements from the water implementation fund unless the board and advisory committee make the certification outlined in HB 4. This amendment has the potential to add additional restrictions on the disbursement of money from the water implementation fund.</p>	<p><u>Will of the House</u></p>
<p>Rep. Herrero P. 17 830372</p>	<p>Currently, HB 4 states that the most populated areas, rural or diverse populations and regionalization will receive highest priority for consideration of projects. This amendment seeks to further include minority populations by designating that 10% of projects support a rural political subdivision and/or a colonia. This will ensure that the needs of marginalized populations are met.</p>	<p><u>Favorable</u></p>
<p>Rep. King, T P. 18 830330</p>	<p>Under HB 4, at least 10 percent of the water fund must apply to support projects described in the bill that are designed to serve rural areas. This amendment includes two other recipient eligibility requirements for this funding. The projects must be for a rural political subdivision or an agricultural water conservation in a metro area with a maximum population of 325,000 people or a county this is outside of a metro area. This amendment expands 10 percent of the water funding to support agricultural conservation projects in smaller, rural parts of this state.</p>	<p><u>Favorable</u></p>
<p>Rep. Herrero P. 19 830370</p>	<p>This amendment adds a provision under the management of the state water implementation fund of Texas used by the TWDB, that they must publicly post required disclosure of political contributions, placement agents & fees for the fund on its website in a timely fashion.</p>	<p><u>Favorable</u></p>
<p>Rep. Turner, C. P. 20 830353</p>	<p>This amendment adds an additional requirement that not less than one percent of funds shall be used to support projects that award grants to residents who install drought resistant landscaping or water conserving turf. This bill will help ensure Texas residents are installing landscaping that helps conserve water use, especially during times of long harsh droughts.</p>	<p><u>Favorable</u></p>
<p>Rep. Lucio III P. 21 830307</p>	<p>Adds the Economically Distressed Areas Program (EDAP) back into HB 4 as a beneficiary of SWIFT funds. EDAP grants and/or loans may only draw up to half the amount of SWIFT earnings and interest above 8 percent. EDAP helps prevent substandard development.</p>	<p><u>Favorable</u></p>
<p>Rep. Taylor, V. P. 25 830315</p>	<p>Under current law, a trust company can enter into a bond agreement at the discretion of the board that would move funds to another account to support loans that have interest rate of not less than 50 percent of the current market rate. This amendment seeks to calculate interest at the highest rate of inflation for the 12 months in order to protect funds by adjusting interest rates for inflation.</p>	<p><u>Will of the House</u></p>



<p>Rep. Taylor, V. P. 26 830316</p>	<p>This amendment requires that a recipient pay back to the fund the amount received, including interest accrued, if the bonds used to make grants, which is a violation of the bond agreement.</p>	<p><u>Will of the House</u></p>
<p>Rep. Howard P. 27 830356</p>	<p>Currently HB 4 has several different prioritization requirements, but neglects environmental factors. This amendment addresses that issue and includes the prioritization of projects by environmental impacts and benefits, if there are any. This amendment ensures cleaner and safer water resources.</p>	<p><u>Favorable</u></p>
<p>Rep. Herrero P. 28 830374</p>	<p>This amendment clarifies language to allow flexibility for Regional Water Planning Groups while estimating the unit cost of water for prioritization projects.</p>	<p><u>Favorable</u></p>
<p>Rep. Navarez P. 29 830342</p>	<p>This amendment adds “the upgrading or purchasing of existing infrastructure” along with the expected cost of water to be supplied by the projects into cost-effective criteria used when prioritizing regional water projects.</p>	<p><u>Favorable</u></p>
<p>Rep. King, T. P. 30 830331</p>	<p>When awarding points for financial assistance, HB 4 gives highest consideration to projects that are deemed to have a substantial effect on the benefitting population. It also expands highest consideration to projects that have been identified as high priority by the applicable regional water planning group.</p>	<p><u>Favorable</u></p>
<p>Rep. Herrero P. 31 830373</p>	<p>This amendment adds additional criteria to what the Texas Water Development Board must consider in prioritizing projects, which is whether the project serves an existing population. This would prioritize populations currently being served and increase efficiency in the distribution of water.</p>	<p><u>Favorable</u></p>
<p>Rep. Smith P. 32 830368</p>	<p>This amendment removes a clause and simplifies wording. The phrase “awarding contracts that may be more effective than competitive bidding in promoting competitive procurements” is removed and replaced with “an evaluation of methods for encouraging participation in the procurement process by companies domiciled in this state”.</p>	<p><u>Will of the House</u></p>
<p>Rep. Simmons P. 33 830362</p>	<p>This amendment requires the board to post certain information on the boards website regarding transparency of the fund; regarding progress made in development of statewide water supply, bond funded projects in regional water planning areas, investment portfolio of fund, rate of return on investments, description of system of prioritizing projects, and the administrative costs.</p>	<p><u>Will of the House</u></p>



<p>Rep. Frullo P. 35 830161</p>	<p>Consideration must be given to hydraulic shock prevention systems and related technologies when allocating funds toward water conservation or reuse.</p>	<p><u>Favorable</u></p>
<p>Rep. Larson P. 36 830371</p>	<p>This amendment requires that money used for a project supported by a bond agreement under SWIFT is considered to be suitable as matching funds, or for use in addition to any federal grant, loan, bond, or tax credit for a technology being installed (on or near the project) that is offered that will reduce the overall operating cost of the project or the installation reduces the aggregate consumption of water by the project.</p>	<p><u>Favorable</u></p>
<p>Rep. Turner, C. P. 37 830350</p>	<p>This amendment requires that the governing body of a political subdivision include in each contract for a project for which financial assistance is received that the contractor may not make a political contribution for the duration of the contract. Political contribution is defined as a campaign contribution or an officeholder contribution.</p>	<p><u>Favorable</u></p>
<p>Rep. Taylor, V. P. 38 830364</p>	<p>Intends to restrict access to the funds needed in order to implement the bill. The amendment seeks to add an additional requirement to finance or refinance a project. It states that the entity must have no credit rating, or must have a specific credit rating that is designated by certain financial institutions.</p>	<p><u>Unfavorable</u></p>
<p>Rep. Taylor, V. P. 39 830314</p>	<p>Similar to the previous amendment, this seeks to add additional requirements to finance or refinance a project. It states that the entity must have no credit rating or a specific credit rating that is designated by certain financial institutions. The amendment restricts access to funds needed to implement HB 4.</p>	<p><u>Unfavorable</u></p>
<p>Rep. Davis, Y P. 40 830322</p>	<p>This amendment requires construction contracts to include a provision that iron and steel products and manufactured goods be produced in the United States, unless they are of limited quantities, unsatisfactory quality, or increase the total cost of the construction project by 20 percent. This amendment shows support for domestic manufacturing.</p>	<p><u>Favorable</u></p>
<p>Rep. Bell P. 42 830367</p>	<p>This amendment requires that the plans and specifications submitted to the Texas Water Development Board in connection with an application for financial assistance must include a seal from a licensed engineer affirming that they are consistent with and conform to current industry design and construction standards. The engineer for the project may not serve (alone or in combination with another person) as the contractor. This does not prohibit the governmental entity's architect or engineer's original professional service agreement in accordance with applicable licensing laws.</p> <p>This ensures high work standards and level of quality. Prohibiting the engineer of the project from also serving as the contractor limits conflicts of interest.</p>	<p><u>Favorable</u></p>



<p>Rep. Callegari P. 43 830375</p>	<p>This amendment stipulates that a district may not issue bonds without the approval of the Texas Natural Resource Conservation Commission. It allows for certain exemptions from approval by the commission for the issuance of bonds, including refunding bonds or notes that originally funded the project. A district may not execute a note for a term of longer than three years unless the commission issues an order approving the note. Additionally, this amendment adds notes issued and approved by a federally chartered instrumentality of the U.S. to the list of exemptions. A federally chartered instrumentality is an organization that serves a public purpose chartered directly by the federal government.</p>	<p><u>Will of the House</u></p>
<p>Rep. Taylor, V. P. 46 830310</p>	<p>This amendment states that the TWDB must publish notice in the Texas Register after they receive a total of \$5.5 billion from the bonds issued by TWDB. It potentially delays implementation of the bill by pushing back the enactment date through an added clause, which states the act can either take effect on September 1, 2013 or after the bonds notice is published, whichever is later. HB 4 is currently written to take effect September 1, 2013.</p>	<p><u>Will of the House</u></p>
<p>Rep. Creighton P. 47 830360</p>	<p>This amendment specifies the TWDB's primary responsibilities of planning for water resources and administration of financial assistance through programs. The structure of the board is specified to include members with: experience in engineering (1 member), public or private finance (2 members) and law or business (1 member). Members reflect the state's geographic regions. Board Members may not sit on another civil office while serving on the board and may be removed for attempting to file for nomination or election. Members are required to participate in a continuing education program that will be developed by the staff of the board. State employees, along with board members, are required to notify the board chairman of potential grounds for removal and the governor, with the consent of the senate, may remove a board member. General operations and financial transactions are subject to audit. The board must annually provide a report and regularly update a strategic plan that is submitted to the legislature and governor on the progress of the implementation of the state's water plan. Applications for funding and the status of water projects are made public through the board's website. This amendment eliminates the conflicts of interest provision requirement for board members which is a point of concern.</p>	<p><u>Will of the House with the Concerns</u></p>
<p>Rep. Taylor, V. P. 54 830339</p>	<p>Restructures the number of appointed board members TWDB from six to seven. It requires that a minimum of two members have an expertise in finance and would extend the term expiration to two to three members for a staggered term of six years. Finally, the amendment would require the board to assign, on the first board meeting each year, at least two finance expert members to serve on the finance committee. Under this amendment, the committee must meet six times a year and is obligated to evaluate and classify applications for financial assistance and would submit recommendations to the full board on whether the application should be approved or denied.</p>	<p><u>Will of the House</u></p>
<p>Rep. King, T. P. 56 830329</p>	<p>This amendment requires that the governor appoint members to the Texas Water Development Board in a way that the members reflects the diverse geographic regions and population groups of Texas and do not have any conflicts of interest prohibited by state or federal law. This amendment removes language that requires each member be from a different section of the state.</p>	<p><u>Will of the House</u></p>
<p>Rep. Phillips P. 57 830224</p>	<p>Prohibits TWDB from approving an application of assistance for a reservoir project unless the city or county board in which the site is located has a majority vote resolution approving construction of the project.</p>	<p><u>Will of the House</u></p>
<p>Rep. Flynn P. 58 830184</p>	<p>Currently HB4 employs a two-step prioritization process in determining the allocation of funding for water projects. The Texas Water Development Board (TWDB) considers the prioritization suggestions made by Regional Water Planning Groups, among other considerations, to develop guidelines for a prioritization point system. This amendment would allow commissioners courts of each county in North East Texas (Regional Planning Area D) to appoint a representative to the Regional Water Planning Group. This gives North East Texas the opportunity for disproportionate representation and increased local government influence in the prioritization process.</p>	<p><u>Will of the House</u></p>

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<p>Rep. Schaefer P. 60 830318</p>	<p>This amendment allows Type A and B corporations to undertake Water Development projects if funds are appropriated. If no funds are appropriated, these corporations may undertake these projects if the projects are included in the regional water plan.</p>	<p><u>Will of the House</u></p>
<p>Rep. Davis, Y P. 61 830321</p>	<p>This amendment requires that construction projects, including projects authorized to receive funding under the Water Code, in which iron, steel, or manufactured goods will be used, must require that bid documents and contracts include a provision that the goods used be produced in the United States. A government entity is exempt from this domestic requirement if it determines that the specified manufactured goods are insufficient and of unsatisfactory quality, or the inclusion of United States-made materials will raise the cost of the project by more than 15 percent.</p>	<p><u>Favorable</u></p>
<p>Rep. Gutierrez P. 63 830369</p>	<p>This amendment states that an amount up to 10 percent from the balance of the Rainy Day Fund, or \$1 billion, is appropriated to the comptroller to apply to the credit of the water infrastructure fund. The amount will be made available to be used by the Texas Water Development Board for purposes of the water infrastructure fund.</p>	<p><u>Favorable</u></p>
<p>Simpson Rep. P. 64 830359</p>	<p>This amendment states that the legislature cannot put any provisions, including: dates of enactment, HB 6, and SB 1653, into place that prevents the bill from going into effect.</p>	<p><u>Will of the House</u></p>

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