

Legislative Priorities Report

85th Legislative Session



Legislative Priorities

85th Texas Legislative Session

Bech Bruun, Chairman

Kathleen Jackson, Member

Peter Lake, Member

Jeff Walker, Executive Administrator

January 2017

Contents

Executive Summary	5
Outcomes of the 84th Legislative Session	7
Priorities for the 85th Legislative Session	8
Legislative Appropriations Request Exceptional Items	17

Figures

Figure 1 Unique stream segments previously designated by the Texas Legislature and additional recommended segment	9
Figure 2 Reservoir sites recommended for designation as unique	11
Figure 3 Unique reservoir sites previously designated by the Texas Legislature	12

Table

Table 1 TWDB-related legislation from the 84th Session of the Texas Legislature	7
--	----------

Executive Summary

The mission of the Texas Water Development Board (TWDB) is to provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas. To further our mission, we collect, analyze, and distribute water and geographic data that helps businesses, citizens, local governments, and water providers make informed decisions. We coordinate regional water planning and prepare the state water plan to show Texans what actions are needed to achieve water security in times of drought. And we administer cost-effective financial assistance programs for water supply, wastewater treatment, flood control, and agricultural water conservation projects.

The TWDB was created by constitutional amendment in 1957 after several years of drought had devastated the Texas economy. Since that time, the TWDB has been charged with addressing the state's water needs through planning and financial assistance. While local communities carry out the responsibility for providing water to their residents, the TWDB has a leadership and support role through guiding, enabling, and supporting the conservation and responsible development of the state's water resources.

While Texas has experienced many droughts, 2011 was the worst one-year drought on record, resulting in unprecedented agricultural and other economic losses. Three years later, the drought was still persisting in many parts of the state. In some areas, the severity of the drought was close to surpassing the drought of the 1950s.

As a result of this ongoing drought and an increasing focus on implementing water management strategies in the state water plan, the 83rd Texas Legislature passed House Bill (HB) 4 and Senate Joint Resolution (SJR) 1 providing for the creation of the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT). In addition, HB 1025 authorized a one-time, \$2 billion

supplemental appropriation from the state's Economic Stabilization Fund (also known as the Rainy Day Fund) to SWIFT, contingent on enacting HB 4 and passing and adopting SJR 1 through voter approval. Proposition 6 passed on November 5, 2013, with more than 70 percent in favor. This investment was designed to support close to \$27 billion in state financial assistance identified in the state water plan for water supply projects over the next 50 years to ensure that Texas communities have adequate supplies of water during drought. HB 4 also included governance changes to the TWDB, transitioning the part-time, volunteer six-member Board to a full-time, professional, three-member Board to ensure oversight of the funds and greater accountability.

Since the passage of HB 4 and Proposition 6, the TWDB has made a concerted effort to streamline financial assistance and water planning processes and to improve customer service. The Board looks forward to financing implementation of strategies in the 2017 State Water Plan so that Texas communities are prepared for drought and will continue to grow and prosper in the decades to come. In addition to serving current customers, the TWDB is looking to establish new relationships with potential customers that may not have considered the benefits of state assistance in the past.

During the 2015 legislative session, Senator Watson authored an amendment that directed funding to the Disaster Contingency Account. In November, Governor Abbott authorized the transfer of \$6.8 million from that account to the TWDB to develop a high-tech network of stream gages and to provide additional technical assistance and outreach for floodplain management and planning. The 84th Legislature also passed legislation that established an appeal process to challenge reasonableness of aquifer desired future conditions (HB 200) and facilitated the study and development of brackish groundwater (HB 30).

Section 6.156 of the Texas Water Code requires the TWDB to provide a biennial report to the governor and members of the legislature that must include a statement of agency activities and recommendations for necessary and desirable legislation. Working toward implementing the agency's vision, the TWDB examined water management policies and funding issues in order to make recommendations to the 85th Legislature.

This report also includes policy recommendations from the 2017 State Water Plan. The state water plan serves as a guide to state water policy and includes legislative recommendations on various issues related to water planning and implementation. By statute, the Board must consider making recommendations that it believes are needed and desirable to facilitate voluntary water transfers and to identify river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs. Previous state water plans also have recommendations regarding such issues as financing the state water plan, requiring retail utilities to conduct water loss audits, and encouraging water conservation. The TWDB based the recommendations for this plan largely on recommendations contained in the 2016 regional water plans.

This Legislative Priorities Report includes the following recommendations to the 85th Texas Legislature, including three recommendations that the Board adopted in the 2017 State Water Plan:

- The legislature should designate the five river or stream segments of unique ecological value recommended by the 2016 regional water plans (Alamito Creek, Black Cypress Bayou, Black Cypress Creek, Pecan Bayou, and Terlingua Creek) for protection under Texas Water Code §16.051(f).
- The legislature should designate for protection under Texas Water Code §16.051(g) three sites of unique value for the construction of reservoirs as recommended in the 2016 regional water plans:

Coryell County Off-Channel Reservoir, Millers Creek Off-Channel Reservoir, and Parkhouse II (North).

- The legislature should require that the next set of desired future conditions be adopted collectively by the district representatives of each groundwater management area by January 5, 2022, and every five years thereafter and require that the regional water plans under development as of that same date be consistent with those adopted desired future conditions in effect on that date.
- The legislature should enact statutory provisions to reflect changes in federal law regarding the Clean Water State Revolving Fund (CWSRF), including a maximum loan term of up to 30 years.

In conjunction with these legislative priorities, this report also includes narrative summaries of the TWDB's Exceptional Item Requests included in the agency's Legislative Appropriations Request for Fiscal Years 2018–2019. These requests include:

1. Economically Distressed Areas Program Debt Service (\$9,674,583)
2. Centralized Accounting and Payroll/Personnel System (CAPPS) Implementation (\$1,733,200)
3. Continuation of Flood Funding (\$12,458,000)
4. Secure Long-term Funding for Existing Operations (\$5,669,316)
5. Restore Fiscal Year 18/19 Four Percent Reductions (\$2,122,140)



The Clean Water State Revolving Fund (CWSRF) assists communities by providing low-cost financing for a wide range of wastewater, stormwater, reuse, and other pollution control projects

Outcomes of the 84th Legislative Session

In addition to implementation of HB 6, which requires that the TWDB administer emergency disaster funding transferred to the Floodplain Management Account, the agency is working to implement several budget riders and other legislation from the 84th Texas Legislative Session. Riders include Demonstration Projects for Near-Term Alternative Water Supplies (Rider 25); Quantifying and Installing Water Conservation Strategies (Rider 26); and

Regional Drainage and Water Assistance (Rider 27). Rules have been developed to implement HB 200, which established an appeal process to challenge reasonableness of aquifer desired future conditions, and for HB 949, which allows TWDB to provide flexibility in addressing water loss if the applicant for financial assistance is already addressing its water loss issues, either with previous TWDB funding or other resources. Work is also in progress on the study of brackish groundwater (HB 30) and has recently been completed on the mapping of groundwater in confined and unconfined aquifers (HB 1232).

Table 1. TWDB-related legislation from the 84th Session of the Texas Legislature

HB 6	Administration of emergency disaster funding transferred to the Floodplain Management Account
HB 30	Study and development of brackish groundwater
HB 163	Creation of Southwestern Water Commission
HB 200	Establishes an appeal process to challenge reasonableness of aquifer desired future conditions
HB 280	Posting of additional SWIFT transparency information on web
HB 949	Allows the TWDB to provide flexibility in addressing water loss if the applicant for financial assistance is already addressing its water loss issues
HB 1016	Designation of unique stream segments in Region L regional water planning area, including parts of the Nueces, Frio, Sabinal, San Marcos, and Comal rivers
HB 1042	Designation of Lake Ringgold as unique reservoir site
HB 1224	Cross-collateralization of Drinking Water State Revolving Fund (SRF) with Clean Water SRF to strengthen the credit rating of the Drinking Water SRF
HB 1232	Mapping of groundwater in confined and unconfined aquifers
SB 991	Assisting the General Land Office with wind and solar brackish groundwater desalination study
SB 1101	Determination of groundwater supply in Region D regional water planning area
SB 1301	Texas Water Resource Finance Authority board statute cleanup to reflect changes to the TWDB's governing Board by HB 4, 83rd Session



The legislature should designate the five river or stream segments of unique ecological value recommended by the 2016 regional water plans for protection under Texas Water Code §16.051(f).

Priorities for the 85th Legislative Session

1. Recommendation (also included in 2017 State Water Plan)

The legislature should designate the five river or stream segments of unique ecological value recommended by the 2016 regional water plans (Alamito Creek, Black Cypress Bayou, Black Cypress Creek, Pecan Bayou, and Terlingua Creek) for protection under Texas Water Code §16.051(f).

The recommendation is for the following five stream segments:

- **Alamito Creek** in Presidio County solely within the boundary of the 1,061-acre Trans Pecos Water Trust—approximately a 3.5-mile stream segment.
- **Black Cypress Bayou** in Marion and Cass counties from the confluence with Big Cypress Bayou in south central Marion County upstream to the confluence of Black Cypress Creek east of Avinger in south Cass County.
- **Black Cypress Creek** in Cass and Morris counties from the confluence with Black Cypress Bayou east of Avinger in southern Cass County upstream to its headwaters located four miles northeast of

Daingerfield in the eastern part of Morris County.

- **Pecan Bayou** in Red River County from two miles south of Woodland in northwestern Red River County east to the Red River, approximately one mile west of the eastern Bowie County line.
- **Terlingua Creek** in Brewster County solely within the boundary of Big Bend National Park—approximately a five-mile stream segment. The reach of Terlingua Creek recommended as an ecologically unique stream segment is only that portion of the creek located within Big Bend National Park. This proposed unique segment is approximately five miles in length. Terlingua Creek transects Big Bend National Park from the confluence with the Rio Grande to the Big Bend National Park boundary located about five miles north of the river.

By statute, this designation solely means that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in a specific river or stream segment that the legislature has designated as having unique ecological value (§16.051(f)). It is up to the legislature to make such designations.

Background

Pursuant to Texas Water Code §16.051(e) and §16.053(e) (6), state and regional water plans shall identify river and

stream segments of unique ecological value that they recommend for protection. Based on the regional planning groups' recommendations, the 2017 State Water Plan recommended the previously mentioned stream segments be designated as unique.

Senate Bill 3, passed by the 80th Texas Legislature, designated 19 stream segments recommended in the 2007 State Water Plan, and the 84th Texas Legislature designated an additional five segments from the 2012 State Water Plan with passage of House Bill 1016. Some of these designated stream segments included multiple, separate reaches of the same stream (*Figure 1*).

Statutory Change

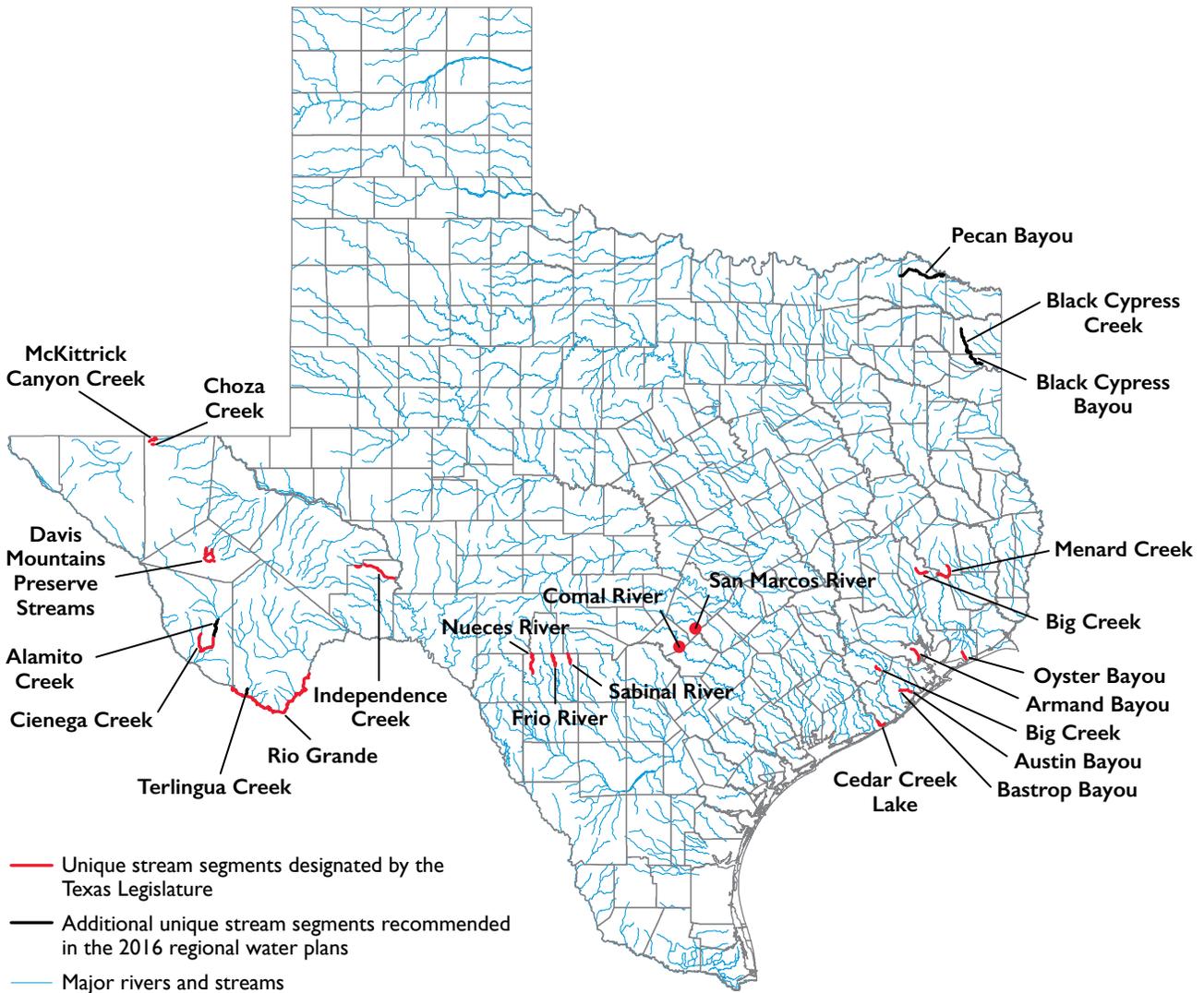
AN ACT

relating to the designation of certain river or stream segments as being of unique ecological value.

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

SECTION 1. DESIGNATION OF RIVER OR STREAM SEGMENTS OF UNIQUE ECOLOGICAL VALUE. The legislature, as authorized by Section 16.051(f), Water Code, designates as being of unique ecological value the following river or stream segments:

Figure 1. Unique stream segments previously designated by the Texas Legislature and additional recommended segments



1. Alamito Creek in Presidio County solely within the boundary of the 1,061-acre Trans Pecos Water Trust;
2. Black Cypress Bayou in Marion and Cass counties from the confluence with Big Cypress Bayou in south central Marion County upstream to the confluence of Black Cypress Creek east of Avinger in south Cass County;
3. Black Cypress Creek in Cass and Morris counties from the confluence with Black Cypress Bayou east of Avinger in southern Cass County upstream to its headwaters located four miles northeast of Daingerfield in the eastern part of Morris County;
4. Pecan Bayou in Red River County from two miles south of Woodland in northwestern Red River County east to the Red River; and
5. Terlingua Creek in Brewster County solely within the boundary of Big Bend National Park.

SECTION 2. EFFECT OF DESIGNATION. The designation of a river or stream segment as being of unique ecological value under Section 1 of this Act:

1. means only that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in the designated segment;
2. does not affect the ability of a state agency or political subdivision of the state to construct, operate, maintain, or replace a weir, a water diversion, flood control, drainage, or water supply system, a low water crossing, or a recreational facility in the designated segment;
3. does not prohibit the permitting, financing, construction, operation, maintenance, or replacement of any water management strategy to meet projected water supply needs recommended in, or designated as an alternative in, the 2011 or 2017 Regional Water Plan; and
4. does not alter any existing property right of an affected landowner.

SECTION 3. EFFECTIVE DATE. This Act takes effect immediately if it 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 Act takes effect September 1, 2017.

2. Recommendation (also included in 2017 State Water Plan)

The legislature should designate for protection under Texas Water Code §16.051(g) three sites of unique value for the construction of reservoirs as recommended in the 2016 regional water plans: Coryell County Off-Channel Reservoir, Millers Creek Off-Channel Reservoir, and Parkhouse II (North).

The legislature should designate for protection the three reservoir sites, Coryell County Off-Channel Reservoir, Millers Creek Off-Channel Reservoir, and Parkhouse II (North) (*Figure 2*). These three reservoir sites were recommended for designation in the 2016 regional water plans and have never been previously designated by the Texas Legislature as having unique value for the construction of reservoirs.

Designation of sites of unique value for the construction of reservoirs by the Texas Legislature provides an important measure of protection for these sites for future development. While designation of unique sites by the Texas Legislature does prevent some actions that could threaten the development of a reservoir, it does not guarantee protection of the sites, for example, against federal actions.

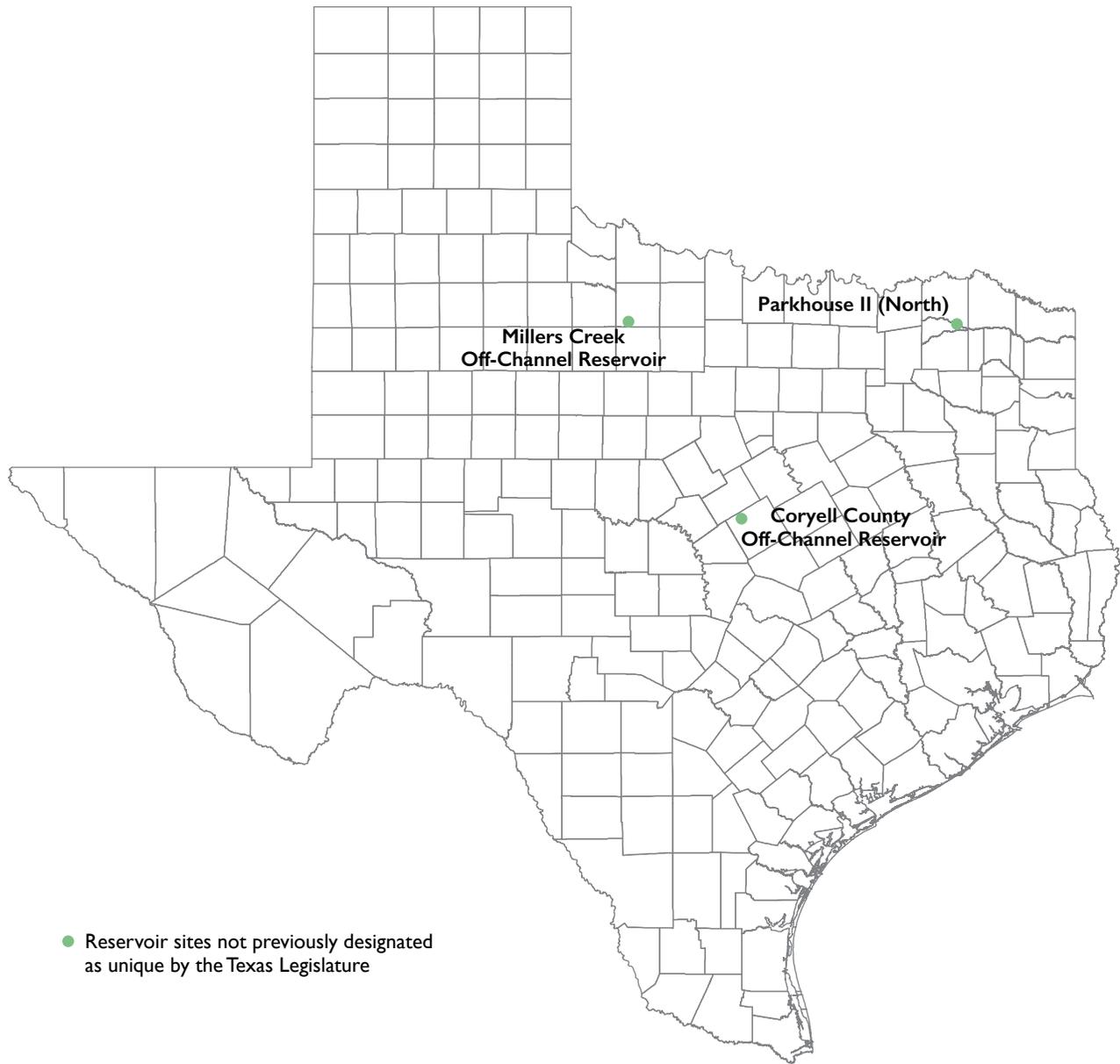
Background

Pursuant to Texas Water Code §16.051(e) and §16.053(e) (6), the state and regional water plans shall identify sites of unique value for reservoir construction. This authority also relates to the state's general interest in reservoir development as codified in the Texas Constitution:

"It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public, and to encourage the optimum regional development of systems built for the filtration, treatment, and transmission of water and wastewater."
– Article 3, Section 49-d(a)

Texas Water Code §16.051(g) gives the legislature authority to designate a site of unique value for the construction of a reservoir. By statute, once a reservoir site is designated for protection, a state agency or political

Figure 2. Reservoir sites recommended for designation as unique



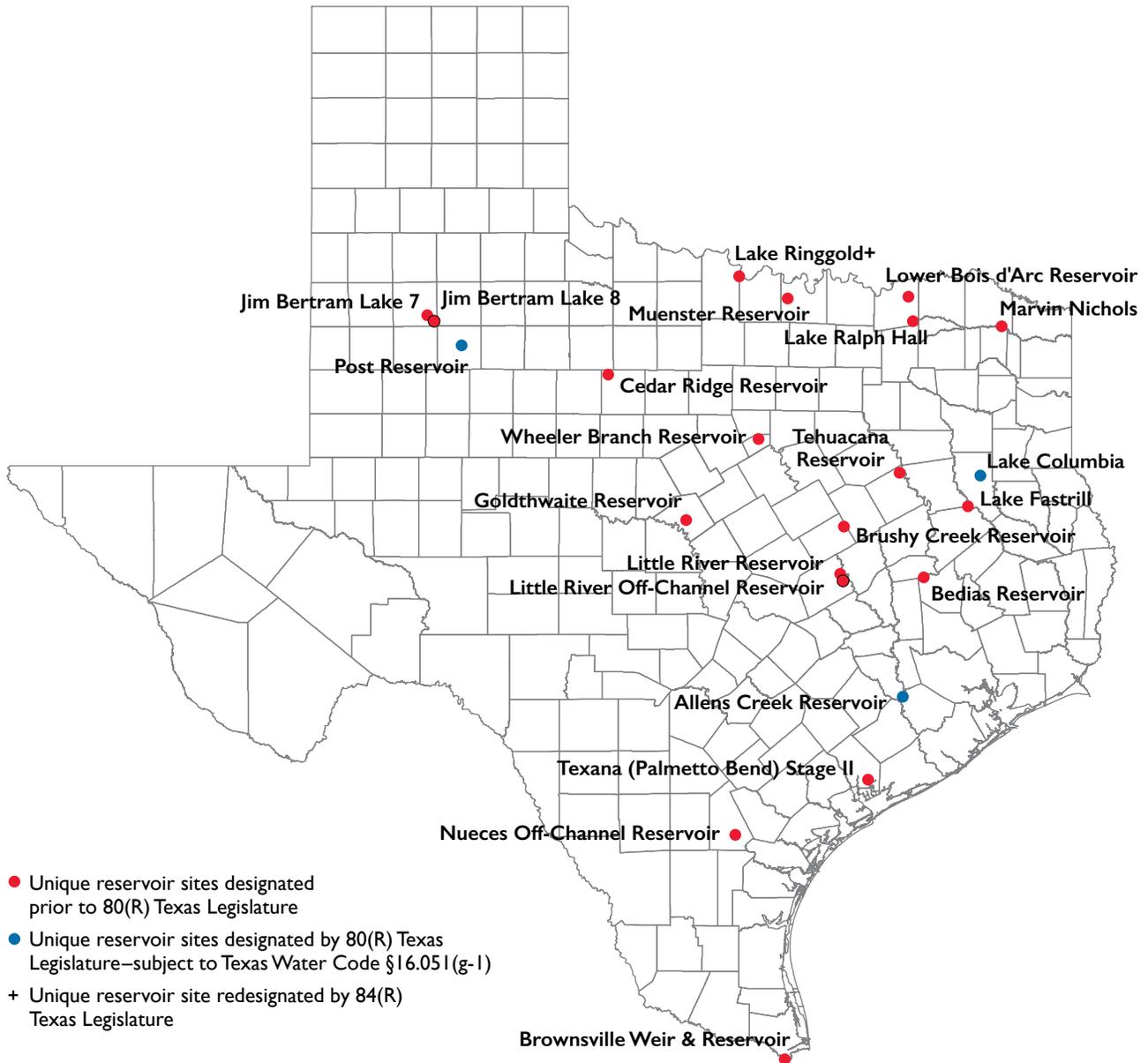
subdivision of the state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir. Without such designation, actions by state or local government entities could compromise the viability of these sites for future reservoir development.

Not all regions of Texas have access to the same types of water resources or in similar proportion. For many water users, development of reservoirs is an important means for providing large volumes of renewable, affordable water supply. As evidenced in the 2016 regional water plans and the 2017 State Water Plan, surface water resources,

including the development of additional major reservoirs, will continue to play an essential role in Texas' water plans throughout and beyond the current planning horizon.

Approximately 45 percent of all recommended water management strategy supplies in this plan are associated with surface water, the majority of which is associated with existing and future reservoirs. Meeting a significant share of Texas' future water needs through the development of the most promising reservoir sites requires a stable, long-term commitment.

Figure 3. Unique reservoir sites previously designated by the Texas Legislature



Prior to the 80th Texas Legislature, three unique reservoir sites had been previously designated by the legislature: the 76th Texas Legislature designated Allens Creek Reservoir with the passage of Senate Bill 1593, the 77th Texas Legislature designated Post Reservoir in 2001 with House Bill 3096, and the 78th Texas Legislature designated Lake Columbia in 2003 with the passage of Senate Bill 1362 (*Figure 3*).

With the passage of Senate Bill 3 in 2007, the 80th Texas Legislature designated an additional 19 reservoir sites

(*Figure 3*) with a provision whereby the designations would expire on September 1, 2015, "unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law" (Texas Water Code §16.051(g-1)). With the passage of House Bill 1042 in 2015, the 84th Texas Legislature redesignated the Lake Ringgold reservoir site as unique.

Statutory Change

AN ACT

relating to the designation of a site of unique value for the construction of a reservoir.

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

SECTION 1. The legislature, as authorized by Section 16.051(g), Water Code, and in accordance with the 2017 State Water Plan, designates the following sites as having unique value for the construction of a dam and reservoir:

1. Coryell County off-Channel Reservoir;
2. Millers Creek Off-Channel Reservoir; and
3. Parkhouse II (North).

SECTION 2. This Act takes effect immediately if it 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 Act takes effect September 1, 2017.

3. Recommendation (also included in 2017 State Water Plan)

The legislature should require that the next set of desired future conditions be adopted collectively by the district representatives of each groundwater management area by January 5, 2022, and every five years thereafter and require that the regional water plans under development as of that same date be consistent with those adopted desired future conditions in effect on that date.

Replacing the statutory deadline for proposed desired future conditions under Texas Water Code §36.108 with a deadline for adoption of desired future conditions and tying that adoption deadline to the existing statutory deadline for adoption of the state water plan will increase stakeholder certainty and better synchronize the five-year joint groundwater and regional water planning cycles. This recommendation will also provide agency staff with sufficient time to develop and deliver modeled available groundwater numbers in a timely manner for use by planning groups.

With regard to the next joint groundwater planning and 2022–2026 regional water planning cycles, the recommendation would result in an anticipated schedule as follows:

- January 5, 2022 – deadline for adopted desired future conditions
- January 5, 2022 – deadline for adoption of the 2022 State Water Plan
- January 2023 – TWDB develops and delivers modeled available groundwater numbers. 2022–2026 regional water plans must be consistent with the desired future conditions in effect as of January 5, 2022

Background

Estimates of annual groundwater availability that are based on desired future conditions are one of the fundamental constraints in the development of regional water plans. However, under Texas Water Code §16.053(e)(2-a), the specific desired future conditions on which each regional water planning cycle is based are currently governed by a combination of an indeterminate state water plan adoption date and an indeterminate desired future conditions adoption date. This creates uncertainty for both representatives of groundwater management areas and planning group members in the form of “moving target” dates. The interrelated processes and requirements causing this situation are as follows:

- Notwithstanding the one-time, one-year extension for the current round of joint planning in groundwater management areas, the current statutory deadline for district representatives in groundwater management areas *proposing* desired future conditions is September 1, 2010, and every five years thereafter.
- Once desired future conditions are *proposed*, however, the date of actual *adoption* of desired future conditions is not date-certain. Once desired future conditions are *proposed*, it is estimated that it could require up to an additional three to nine months for their *adoption*, but that time frame is not set forth in statute. The TWDB cannot produce and deliver the resulting modeled available groundwater numbers for use by groundwater districts and planning groups until it receives the adopted desired future conditions. The estimated time required for the TWDB to develop and deliver modeled available groundwater numbers ranges from approximately six months to one year following receipt of adopted desired future conditions.



Groundwater is a major source of water in Texas.

- Statute requires that regional water plans must be consistent with the *adopted* desired future conditions as of the date the Board most recently adopted a state water plan. While the statutory deadline for adoption of the state water plan is January 5, 2002, and every five years thereafter, the specific date that the Board actually adopts each state water plan prior to that deadline is not date-certain.

Statutory Change

Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA.

(d) ~~The [Not later than September 1, 2010, and every five years thereafter, the]~~ districts shall consider groundwater availability models and other data or information for the management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-2), the districts shall consider:

1. aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;
2. the water supply needs and water management strategies included in the state water plan;
3. hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the Executive Administrator, and the average annual recharge, inflows, and discharge;
4. other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;
5. the impact on subsidence;
6. socioeconomic impacts reasonably expected to occur;
7. the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;
8. the feasibility of achieving the desired future condition; and

9. any other information relevant to the specific desired future conditions.

(d-3) After the earlier of the date on which all the districts have submitted their district summaries or the expiration of the public comment period under Subsection (d-2), the district representatives shall reconvene to review the reports[,] and consider any district's suggested revisions to the proposed desired future conditions, [, and] No later than January 5, 2022, and before the end of each successive five-year period after that date, the district representatives shall finally adopt the desired future conditions for the management area. The desired future conditions must be adopted as a resolution by a two-thirds vote of all the district representatives. The district representatives shall produce a desired future conditions explanatory report for the management area and submit to the development board and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:

1. identify each desired future condition;
2. provide the policy and technical justifications for each desired future condition;
3. include documentation that the factors under Subsection (d) were considered by the districts and a discussion of how the adopted desired future conditions impact each factor;
4. list other desired future condition options considered, if any, and the reasons why those options were not adopted; and
5. discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the desired future conditions.

Sec. 16.053. REGIONAL WATER PLANS.

(e) Each regional water planning group shall submit to the development board a regional water plan that:

1. is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);
2. provides information based on data provided or approved by the development board in a format

consistent with the guidelines provided by the development board under Subsection (d);

- 2-a. is consistent with the desired future conditions most recently adopted under Section 36.108~~[for the relevant aquifers located in the regional water planning area as of the date the board most recently adopted a state water plan under Section 16.051 or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan]~~; provided, however, that if no groundwater conservation district exists within the area of the regional water planning group, the regional water planning group shall determine the supply of groundwater for regional planning purposes; the Texas Water Development Board shall review and approve, prior to inclusion in the regional water plan, that the groundwater supply for the regional planning group without a groundwater conservation district in its area is physically compatible, using the board's groundwater availability models, with the desired future conditions adopted under Section 36.108 for the relevant aquifers in the groundwater management area that are regulated by groundwater conservation districts.

4. Recommendation

The legislature should enact statutory provisions to reflect changes in federal law regarding the Clean Water State Revolving Fund (CWSRF), including a maximum loan term of up to 30 years.

The legislature should change the relevant sections of the Texas Water Code to reflect the changes made by the federal Water Resources Reform and Development Act of 2014 (WRRDA).

WRRDA amended the Federal Water Pollution Control Act, and these changes have a direct impact on the Clean Water State Revolving Fund. WRRDA increased the types of projects and activities eligible under the Texas CWSRF program. In addition, it allowed direct loan terms of up to 30 years, provided the term does not exceed the useful life of the project.

Background

The Texas Water Code, in Sections 15.601(a) and 15.603(a), refers to providing financial assistance only to political subdivisions for construction of treatment works and to persons for nonpoint source pollution control and abatement projects. In addition, Section 15.604(a) states that financial assistance may be provided to persons for nonpoint source pollution control and abatement projects. However, WRRDA allowed financial assistance to both political subdivisions and persons for many new activities, including: storm water or sub-surface drainage water projects, watershed projects, reusing or recycling wastewater projects, and technical assistance to owners and operators of small and medium publicly owned treatment works. The Water Code should be amended to reference all the projects and activities that may be funded under the Clean Water State Revolving Fund, which would include new projects eligible for assistance along with the projects currently listed in the Texas Water Code.

The Texas Water Code, in Chapter 15, Section 15.604(a), currently includes the prior language from the Federal Water Pollution Control Act that the term of a CWSRF loan may not exceed 20 years. WRRDA increased the term from 20 years to the lesser of 30 years or the projected useful life of the project. WRRDA also changed the language related to the loan amortization.

Statutory Change

Sec. 15.601. CREATION OF FUND.

(a) The state water pollution control revolving fund shall be administered by the board under this subchapter and rules adopted by the board. The fund shall be used to provide financial assistance to political subdivisions and persons for the projects eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) ~~[to political subdivisions for construction of treatment works]~~ and to persons for nonpoint source pollution control and abatement projects under Section 15.603(h), in accordance with the capitalization grant program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

Sec. 15.603. CREATION AND ADMINISTRATION OF PROGRAM.

(a) The revolving fund is held separately from other funds by the board outside the State Treasury to provide financial assistance to political subdivisions and persons for the projects eligible under section 603(c) of the federal act (33 U.S.C. 1383(c)) ~~[to political subdivisions for construction of treatment works and to persons for estuary management projects and for nonpoint source pollution control and abatement projects under Subsection (h)]~~.

Sec. 15.604. FINANCIAL ASSISTANCE UNDER THE REVOLVING FUND.

- (a) The board may use the revolving fund for financial assistance only as provided by the federal act:
1. to make loans, on the conditions that:
 - a. those loans are made at or below market interest rates, including interest-free loans, at terms not to exceed 30 ~~[20]~~ years;
 - b. principal and interest payments will begin not later than one year after completion of any treatment works and all loans will be fully amortized upon the expiration of the term of the loan ~~[not later than 20 years after completion of the treatment works]~~;
 - c. the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and
 - d. the revolving fund will be credited with all payments of principal of and interest on all loans;
 2. to buy or refinance the debt obligation of political subdivisions at or below market rates if the debt obligations were incurred after March 7, 1985;
 3. to guarantee or purchase insurance for political subdivisions if the guarantee or insurance would improve access to market credit or reduce interest rates;
 4. as a source of revenue or security for the payment of principal and interest on bonds issued by the state if the proceeds of the sale of those bonds will be deposited in the revolving fund;
 5. to provide loan guarantees to similar revolving funds established by municipalities or intermunicipal agencies;



Changes to the Federal Water Pollution Control Act have increased the types of projects eligible for the CWSRF program.

6. to earn interest on revolving fund accounts;
7. for the reasonable costs of administering the revolving fund and conducting activities provided for by Title VI of the federal act, except that those amounts may not exceed the amount authorized under Title VI of the federal act;
8. to provide financial assistance to political subdivisions and persons for the projects eligible under section 603(c) of the federal act (33 U.S.C. 1383(c)) [~~persons for a nonpoint source pollution control project under Section 319 of the federal act or for an estuary management project under Section 320 of the federal act~~];
9. for other purposes as provided by the federal act; and
10. to provide linked deposits to eligible lending institutions for loans to persons for nonpoint source pollution control projects.

Legislative Appropriations Request Exceptional Items

The TWDB is requesting five exceptional items to ensure the agency's ability to continue core operations, provide for continued financial assistance to economically distressed areas, implement the mandatory CAPPS financial system, and provide additional flood protection planning and projects. These items total approximately \$31,657,239 for the biennium.

1. Economically Distressed Areas Program Debt Service (\$9,674,583)

Description and Justification

The Economically Distressed Areas Program (EDAP) was created in 1989 to provide affordable financial assistance for water and wastewater services where those services are inadequate to meet minimum standards. The program includes measures to prevent future substandard development through the required adoption of Model Subdivision Rules, as legally applicable. The EDAP program has had \$500 million in voter-approved general obligation bonds authorized and has been augmented with \$300 million in EPA grants for the Colonia Wastewater Treatment Assistance Program (CWTAP).

The EDAP program was expanded by the 79th Texas Legislature to include subdivisions in existence prior to June 2005 and by changing the definition of an affected county. Ongoing financing needs have been identified for existing projects and through demand in other funding programs. The TWDB, through the EDAP and CWTAP programs, has invested in the pre-construction phases of multiple projects and anticipates applications will be submitted for the design and/or construction. Estimates of future funding needs for those projects exceed \$136 million.

Legislative authorization is requested to issue up to \$53 million in general obligation bonds in the FY2018–2019 biennium for EDAP projects and the corresponding legislative appropriations of approximately \$9.7 million in the FY2018–2019 biennium for payment of debt service to support the bond issuance. The requested exceptional item funding would be used to continue and augment an existing agency initiative. The agency does not anticipate entering into a contract for service as a result of the funding request.

This request would exhaust the remaining bond authorization. Any additional authorization would require a voter-approved constitutional amendment.

External and Internal Factors

Should appropriations for program funds not be approved, projects in economically distressed areas would be delayed or not funded. Projects that previously received TWDB planning, acquisition, and design funding

would not have EDAP grant/loan funding available to them to begin and complete construction.

2. Centralized Accounting and Payroll/Personnel System (CAPPS) Financials Implementation (\$1,733,200)

Description and Justification

The TWDB has been selected by the Comptroller of Public Accounts (CPA) to implement CAPPS Financials in FY19 with the system slated to replace the current Uniform Statewide Accounting System (USAS). Current agency financial systems are vital to providing ongoing support of the TWDB's mission to provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas. The TWDB will face the unique challenge of ensuring current debt and loan portfolio data and processes properly interface with the CAPPS Financials system and that critical historical data is readily accessible and functional.

While the basic cost of CAPPS implementation will be covered by the CPA, the TWDB is seeking additional funding to assist in the assessment, interface, and migration of agency-specific systems and data. Known systems to be impacted by CAPPS deployment include the Texas Water Information System Enhancement (TxWISE), the agency's comprehensive loan and grant system implemented through a partnership with the U.S. Environmental Protection Agency (EPA), as well as the Micro Information Products (MIP) financial system.

Throughout the deployment process for CAPPS Financials agency subject matter experts are expected to be highly devoted to deployment efforts. As such, the TWDB is seeking funding to cover temporary staffing resources needed to support agency standard functions as well as to provide some direct deployment-related support. Temporary staffing resources will be needed in both the Finance and Information Technology program areas.

External and Internal Factors

Ensuring the continued stability, validity, and functionality of critical agency systems, data, and processes is of greatest importance to the TWDB throughout the

CAPPS transition. Lack of additional funding to support the agency's transition would strain agency resources and potentially jeopardize the integrity of the agency's financial assistance programs. As such, lack of additional funding may yield a scheduling delay in CAPPS deployment beyond the FY18/19 biennium.

3. Continuation of Flood Funding (\$12,458,000)

The purpose of this exceptional item is to ensure that flood forecasters, emergency responders, and citizens have the information they need to make informed decisions when preparing for, responding to, and recovering from floods in Texas. This item continues and expands funding provided through a memorandum of understanding between the Governor's Office and the TWDB to provide emergency funding to install a network of stream gages to enhance existing flood notification systems and make funds available to state and local entities for floodplain management.

This funding will allow the TWDB to (1) maintain existing flood gages and install additional community-requested and other flood gages, (2) maintain and enhance the Flood Viewer (TexasFlood.org), (3) maintain and expand

weather stations and soil moisture monitoring for flood (TexMesonet.org), (4) provide funding to communities for early flood warning systems and flood mitigation planning, (5) acquire high-resolution land-surface data (LiDAR) to better predict flood plains and flooding levels, (6) continue and expand outreach activities to communities affected by flood, (7) continue to expand the number of flood prediction points in Texas, and (8) develop a state flood plan and assessment for Texas.

External and Internal Factors

Without this exceptional item, the agency would not be able to maintain flood gages installed with the current emergency appropriation or continue and expand other services to better prepare Texas for floods. Federal matching through the Federal Emergency Management Agency is available for some of the salary cost.

4. Secure Long-term Funding for Existing Operations (\$5,669,316)

Description and Justification

The TWDB seeks to secure a long-term and stable fund source such as general revenue to fund our ongoing



As part of the financial assistance programs available, the TWDB administers state and federal grant programs for flood protection planning and implementation of flood mitigation projects.

operating budget. This request is to swap ongoing operating costs currently funded by the Texas Water Resources Finance Authority (TWRFA) to general revenue. This request does not seek to increase the TWDB base budget in total. TWRFA funds are allocated across our operating budget and are part of the method of finance for a majority of our strategies.

TWRFA contributions to the TWDB's operating budget are shown as appropriated receipts in the accompanying legislative appropriations request and represent the majority of those totals. The TWDB's operating budget currently relies upon a significant annual draw from the assets of TWRFA to fund ongoing, recurring operations, including approximately 9 percent of the agency's total salaries and wages costs. TWRFA funds are not a sustainable fund source for ongoing costs, and such funds are depleting as annual draws continue.

TWRFA was created in 1989 and initially issued bonds to purchase loans from the Texas Water Development Board. The bonds are paid off and there is no plan for TWRFA to fund a new loan program. A small number of TWRFA loans are outstanding and repaying into the fund. The TWDB shifted an increasing amount of operating costs to TWRFA funds as the TWRFA bonds were paid off and TWDB faced cuts to essential operations due to general revenue budget reductions. In addition to the recurring costs included in the amount of this exceptional item, TWRFA is also funding a variety of grant and research programs at the TWDB.

External and Internal Factors

In the event that the swap of general revenue for TWRFA appropriated receipts is not approved, a significant balance of ongoing TWDB operations would continue to be linked to a limited and closed fund source. As a result, the TWRFA funds would be depleted at a high rate, leaving less TWRFA funds available to fund regional water planning grants, flood protection planning grants, and other research projects. If no swap is made, the TWDB would face the need for significant cuts to FTEs, grant programs, professional fees and services, and other operating expenses in the future.

The TWDB's core operations and programs would suffer substantially and be challenged to continue with the loss of such resources.

The TWDB is in the midst of implementing and managing major programs vital to our state's management of water resources. The continued linkage of significant portions of our ongoing operating budget to a limited and depleting fund source does not align with the TWDB's long-term perspective and mission.

5. Restore Fiscal Year 18/19 Four Percent Reductions (\$2,122,140)

Water Conservation Education and Assistance grants are used for the purpose of meeting the municipal water conservation goals of the state water plan. The TWDB uses the funds to develop and manage a contract to deliver the most effective and accurate process by which to measure water conservation statewide. The TWDB then, by region, will quantify and install on a pro rata basis sufficient municipal water conservation strategies to meet the goals of the state water plan. These funds identify the most effective way to measure water conservation.

External and Internal Factors

This grant provides a mechanism to maximize the effectiveness of water conservation strategies. The continued funding of this grant will ensure that water conservation is properly measured for use in the state water plan.

Texas Water 
Development Board

1700 North Congress Avenue
P.O. Box 13231
Austin, Texas 78711-3231

www.twdb.texas.gov

