



SIERRA CLUB

LONE STAR CHAPTER

To: The Honorable Joan Huffman, Chair, Senate Committee on Finance
Honorable “Chuy” Hinojosa, Vice-Chair
Members, Committee on Finance

September 5th, 2024

The Lone Star Chapter of the Sierra Club is pleased to offer these brief written comments on three infrastructure programs approved by Texas voters in 2023: The Texas Water Fund (Proposition 6), the Texas Energy Fund (Proposition 7) and the Centennial Park Fund (Proposition 14). As an organization, we supported Proposition 14, were neutral on Proposition 6 and opposed Proposition 7, as we did not feel it appropriate in that case to use taxpayer funds for private gas plants.

SB 1648. Centennial Fund

The Sierra Club was a strong supporter of both SB 1648 and the resulting constitutional amendment (Proposition 14), which was approved by voters by an overwhelming majority. After only small amounts of money for land acquisition in past sessions, 2023 represented the first time the Legislature approved major funding for land acquisition. As an organization, we also supported the TPWD’s recently updated Land and Water Resources Conservation and Recreation Plan which has set new goals for acquisition based in part on the additional funding. The passage of Prop 14 means that the commission added 50,000 acres to their land acquisition goals by 2033, increasing the goal from 32,000 acres to 82,000 acres; the commission also included a new action to add 5 new state park system properties by 2033. This major investment in our state parks is a huge boost for our local communities as well as the vulnerable

wildlife that call our state lands home. The Plan is available here: <https://tpwd.texas.gov/publications/land-and-water-plan>

We have been pleased with recent acquisitions made by the Texas Parks and Wildlife Commission, including the addition of parkland near Enchanted Rock and an expected addition at Government Canyon, two state parks near both San Antonio and Austin, which once developed, will provide further recreational opportunities to thousands of Texans.

We want to be clear that we believe that the intent of SB 1648 was to allow TPWD to both utilize the interest generated by the \$1 billion for acquiring land, but also utilize the principle itself when there is a strategic ability to acquire important land. Thus, we agree that TPWD must be conservative with taxpayer resources, but that should not prevent the agency from seizing opportunities when available.

In addition, an important effort could be to seek ways to provide funding and incentives for incorporating nature-based solutions, such as open space and floodplain preservation for development or drainage projects. Because TPWD is implementing its Land and Water Plan, and implementing *Senate Bill 1648, relating to the Centennial Parks Conservation Fund* for new parkland acquisition, assuring close coordination between these two agencies could benefit the public with more recreational opportunities while enhancing flood control.

As the new session begins, there should be additional consideration of funding for acquisition of lands for parklands, for park development and habitat protection - such as wildlife corridors - and exploration of incentives for private land conservation efforts.

Texas Water Fund (SB 28 and Proposition 6): Efforts, including funding, on Water Conservation, Lowering Water Loss and Reuse are key to reliable water supply

Water management in Texas is difficult. With a climate that is variable and changing, frequent flooding and droughts, a growing population and industrialization, and aging infrastructure, water suppliers should and must prioritize water conservation, elimination and the exploration of water reuse projects as ways to make our systems more reliable, and assure adequate supply. In general, water conservation and efforts to mitigate water loss - mainly due to the loss of

water in leaky pipes, valves and other water infrastructure - are key measures identified in the State Water Plan. The Sierra Club is very supportive of the money earmarked in SB 28 for the water awareness campaign, and general outreach and education on the need to prioritize conserving our precious water resources. While the Texas Water Fund is directed towards enhancing existing Texas Water Development Board (TWDB) programs like the Drinking Water and Clean Water State Revolving Funds (DWSRF and CWSRF), the Rural Water Assistance Fund, DFund, SWIFT, and others, we are very supportive of the law's requirement to assure water infrastructure investments in rural communities and strategies that will help better utilize the water that we already have such as water loss mitigation and water conservation projects. Investment in a statewide water awareness campaign will help Texans understand the value of water and promote a water conservation ethic in the state. Assuring that a significant portion of the money from Prop 6 is dedicated to both water loss and conservation projects are key to a reliable water supply. The elimination of water loss and water reuse should be a major focus of this and future funding, and we hope that the "up to \$750" million to be used through the Texas Water Fund will have an emphasis on Shovel-Ready Projects for Water Loss and Water Conservation.

Recently, through a memo discussed on July 23rd, the TWDB announced how they plan to spend the \$1 billion approved by voters. We are supportive. As Table 1 shows, the TWDB has put significant resources toward water loss, water conservation and water awareness programs even as we await more detail on the "New Water Supply Project," which will require future rulemaking. We would highlight the great work TWDB has done to potentially increase the funding from \$1 billion through bond leveraged funding meaning the total amount of money could be closer to \$3 billion.

Recently, the TWDB approved a prioritization of water loss projects in August and the Sierra Club supported this effort, as they have prioritized small, medium and larger projects, including many smaller rural projects which will require grant funding. Through our input to the TWDB we have made suggestions on identifying projects for water loss mitigation and water conservation. We hope to work with the TWDB and the legislature to continue to provide additional funding for these efforts as it appears that with the prioritization of projects identified in August, the majority of the funds are already "spoken for" subject to the due diligence application process.

Water Loss Mitigation Projects

- We suggest that TWDB utilize recent water loss audits to identify communities that are above the TWDB's threshold set for HB 3605 compliance and proactively reach out to them through the TA program.

- Another approach is to utilize the most recent Water Loss Audit data and perform a Frontier Analysis (like the one performed in Hidden Reservoirs) to identify low performing utilities.

- Consider creating set-aside funds, more favorable financing opportunities, and prioritization points for water loss mitigation projects in existing programs, particularly programs with limited financial capacity.

Water Conservation Projects:

- Utilize 5-year water conservation plans to identify water utilities with high GPCD, 5-10 year goals that are not progressive

- Set aside a certain amount of funds for water conservation, including grants . As we have seen with SWIFT, utilities do not generally apply for funds to support water conservation programs. There is a concern that this particular part of the program could be undersubscribed.

Table 1. TWDB SB 28 Categories of Funding, as proposed in July 23rd Memo by Interim Executive Administrator

Funding Category	Funding Description	Amount
Rural Water Assistance Fund	<i>100 percent grant for conservation/water loss projects from SRF solicitation (under 1,000 population)</i>	\$45,000,000
	<i>90 percent grant/10 percent loan or local match for conservation/water loss projects from SRF solicitation (1,000 to 10,000 in population)</i>	\$130,000,000
	<i>High risk or need projects (100 percent grant)</i>	\$20,000,000
	subtotal	\$195,000,000
Water Loan Assistance Fund	<i>70 percent grant/30 percent loan or local match for</i>	\$90,000,000

	<i>conservation/water loss projects from 2025 SRF solicitation (10,001 to 150,000 in population); note \$25 million in funding will be reserved for construction-ready projects that have substantially completed all state or federal permitting</i>	
Statewide water public awareness program	<i>Includes both direct \$10 million contract and \$5 million reserved for future TWDB-led opportunities to invest in K-12 educational resources and programming, data visualization tools, or other related initiatives.</i>	\$15,000,000
SWIFT program support	<i>The Transfer of \$300 million to SWIFT will allow the financing of nearly \$1.7 billion through State Water Implement Revenue Fund for Texas bonds to be issued this fall; can support both infrastructure and water conservation strategies.</i>	\$300,000,000
Potential bond leveraged funding through existing financial assistance programs		\$150,000,000

New Water Supply for Texas Fund	<i>Note that rulemaking for these funds will begin in Fall of 2024 with applications likely in 2025</i>	\$250,000,000
Grand Total		\$1,000,000

“New Water Supply” Projects Require More Study and Careful Coordination between the TWDB, TPWD and TCEQ.

We understand the Legislature's desire to explore new water supply options such as desalination and produced water. The Sierra Club has serious concerns about the potential public health and environmental impacts of such potential projects, which could be funded through the New Water Supply for Texas Fund. As an organization, the Sierra Club has expressed concern about the enumerated new water supply projects eligible for funding under the New Water Supply for Texas Fund. These projects could have numerous environmental, social and economic concerns associated with their development, and lack the proper regulatory framework to mitigate those concerns. For example, produced water can contain salts, metals, radioactive materials, and chemical additives that can be harmful to human health and the environment. Further, marine and seawater desalination projects can pose harms to the environment and people along the Texas Coast and will need to be carefully planned and constructed to ensure those harms are minimized.

“New Water Supply” Projects will require better coordination between TWDB and TCEQ and other actors like groundwater conservation districts and the Produced Water Consortium.

Our recommendations include:

- o Fund studies on groundwater/surface water interaction to quantify the impact of groundwater withdrawals and water management on surface water rights, which will require careful coordination between TCEQ and TWDB.
- o Provide Groundwater Conservation Districts with the resources, including updated and improved groundwater availability models, to identify and manage for sustainable levels of groundwater pumping.
 - Produced Water: Complete Phase 1 and subsequent Phase 2 pilot projects to study constituent characterization, perform risk and toxicology assessments, and assess how produced water projects could impact public health and the environment – as recommended by

the Texas Produced Water Consortium. Again, the Sierra Club has serious concerns with direct discharge projects since many of the constituents found in produced water are not well understood, and water quality standards for many of these constituents have not been established.

- Wait for TCEQ to establish protective water quality standards before any funding is used for desalination and produced water projects. Currently, the State of Texas does not have specific narrative and numeric salinity gradient standards unlike many other states. Desalination projects are of particular concern because of their potential impact on aquatic species of concern, which is why coordination and consultation with the TPWD is so important.
- Prioritize new water supply projects that have demonstrated minimal environmental and health impacts.
- Prioritize water supply projects that have been identified through the state Regional Planning Process. Before approving water supply projects that have not been vetted through that process and identified as a valid water supply project, start with smaller demonstration and pilot projects.

Some of these recommendations will necessitate funding to support the TWDB and TCEQ with additional staff and studies.

Implementation of Texas Energy Fund and SB 2627

Over the last two sessions, most of the effort through approved new laws like SB 3, HB 1500 and SB 2627 has been on creating requirements to bolster the supply side of the grid, including tax-payer backed incentives such as the Texas Energy Fund, and new adequacy products like the Dispatchable Reliability Reserve Service (DRRS).

Voters approved Proposition 7 in November of 2023, and they thus approved four programs that are collectively part of the Texas Energy Fund to begin. Two of the programs are more narrowly focused on energy supply and the rules have been written. Thus, companies have already applied to seek state-backed loans for power plants, while the rules for completion bonuses have already been written. This week, we expect the PUCT to announce those applications that will move forward on the next phase. We are still waiting for rulemaking on the other two programs to begin.

Table. Texas TEF Accounts created by SB 2627

Program	Description	Statutory Limit on Spending
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Loans for ERCOT Region	3% loans for non-electric storage dispatchable generation of at least 100 MWs	Up to \$7,200,000,000 for first two programs
ERCOT Completion Bonus Grants	Annual incentives to newly constructed available dispatchable generation facilities that meet certain criteria	See above
Grants for Facilities Outside ERCOT Region	Grants to utilities for facility modernization, facility weatherization, reliability and resiliency, vegetation management	\$1,000,000,000
Texas Power Promise: Backup Power Packages	Grants or loans for operation of backup power packages that serve up to 2.5 MWs of load and can be islanded during emergencies	\$1,800,000,000

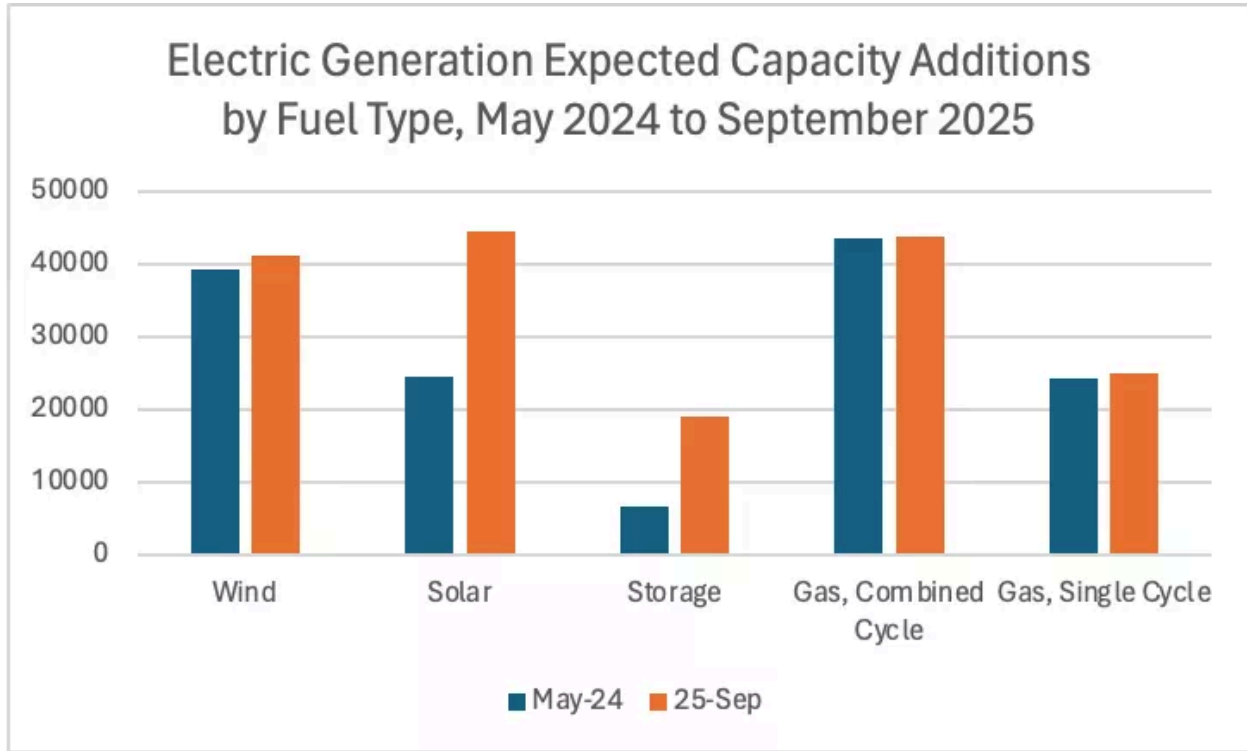
Source: Information from SB 2627

In-ERCOT Generation Loan Program

The interest from private investors in gas technology has been impressive. To be clear, Sierra Club does not believe this investment is needed because other technologies like solar and storage, and newer technologies like geothermal power are increasing without the need for taxpayer-backed incentives. Still, the PUCT has done their job, approving rules with significant stakeholder input and has received 72 applications for loans through the Texas Energy Fund’s In-ERCOT Generation Loan Program. In total, the applications request \$24.41 billion to finance 38,379 megawatts of proposed dispatchable power generation projects in the Electric Reliability Council of Texas (ERCOT) region. Last week, the PUCT approved 17 of those applications for nearly 10,000 MWs for a total of \$5.38 billion. We hope the PUCT will provide transparency on the projects that moved forward and how to access information about the projects and provide input. While to their credit, the PUCT has created a separate website found here - <https://www.txenergyfund.texas.gov/> - public input opportunities are not apparent. We would suggest the Legislature could encourage the PUCT to open a portal or way for Texans to provide

input on proposed projects, and also list the basic information about the projects that are moving forward.

Again, it is important to note that gas generation is not the only investment occurring. Indeed, the largest increases in generation capacity is likely to be in solar and storage investments.



The charts show that the projects that already have interconnection agreements with local transmission companies that are most likely to be built in the next 18 months are solar and battery storage with only a handful of new gas plants likely to be added. However, the passage of Proposition 7 and the initial selection of 17 projects recently make it likely that more gas plants – especially gas turbines – are likely to be built.

Two other programs have yet to move forward with rulemaking and currently do not appear to have appropriated funding.

The other two programs approved by SB 2627 and endorsed by voters are intended to help on reliability and resiliency but thus far the rules have not been finalized, and additional monies still must be appropriated by the Legislature to implement them.

First, the Outside ERCOT Grant Program is intended to fund up to \$1 billion for transmission and distribution infrastructure or electric generating facilities in Texas outside of the ERCOT power

region. Under this program, the PUCT will award grants for the modernization of infrastructure, weatherization, reliability and resiliency enhancements, and vegetation management. Several entities including Entergy Texas have publicly announced their desire to access part of this money. We believe the Legislature should and must appropriate money for this program since many voters live outside of ERCOT and the PUCT must finalize rules. We think given the need for resilience and protection of residents from extremes that spending money on making the distribution system more resilient would be a good use of taxpayer dollars.

Second, TEF will provide grants and loans to qualifying entities to design, procure, or install backup power packages at facilities necessary to support community health, safety, and well-being. A backup power package is a stand-alone, behind-the-meter, multiday backup power source. Again, while an advisory committee led by Senator Johnson has been named and held several meetings, rules have not been approved for these taxpayer-backed backup power packages. The Committee is tasked to recommend criteria to the PUCT for backup power package grants. The Backup Power Package Advisory Committee will submit a recommendation report to the PUCT by October 1, 2024. Again the intent was to appropriate up to \$1.8 billion for this program and again the Legislature should appropriate money and finalize rules for this program.

Political leaders have announced that the Legislature intends to appropriate the other \$5 billion for the TEF. They have focused narrowly only on the supply side issue - more gas plants. The Sierra Club hopes that rather than dedicating these funds to new gas plants, we instead invest in programs for resiliency which ultimately will benefit customers more. Our grid does not have a major supply issue, it has an issue with getting power where it is needed and keeping the lights on when climate extremes occur. Taxpayer funds are better served helping customers, not gas generation investors. At the very least, the Legislature should stick to the statutory requirements approved by voters of \$7.2 billion for supply, \$1 billion for resilience outside of ERCOT and \$1.8 billion for customer back-up power.

As part of this effort, the PUCT will need additional staff to implement both the generation programs as well as the two other programs. PUCT is requesting \$7,846,850 in fiscal year 2026 and \$7,646,850 in fiscal year 2027 in exceptional items to increase staffing to keep pace with the necessary regulatory functions to ensure reliable utility services at a reasonable cost for Texans and address customer service and caseload growth challenges ; implement a case management system as recommended by the Sunset Commission; enhance PUCT's focus on infrastructure reliability and resiliency; support implementation of the Texas Energy Fund; and refresh the Power to Choose resource. The PUCT is requesting a total of 53 FTEs among the exceptional items.

The Sierra Club looks forward to working with the Senate Committee on Finance to assure that the will of voters is implemented and these programs are funded, as well as related needs for the state agencies tasked with implementing them.