

Outline of a General Structure for a Bill for a Sales Tax and Creating a Special Purpose District to Receive and Distribute the Tax¹

A Special Purpose District (“District”) will be established for the purpose of receiving and distributing a sales tax that will be dedicated to (1) funding the requirements of the Endangered Species Act (“ESA”) through the implementation of the EARIP Habitat Conservation Plan (the “HCP”); and (2) funding other water-related projects to address ESA issues, including but not limited to in-stream flows, and bay and estuary flows in the District’s jurisdiction (“Subsequent Projects”).

The District will be distinct from any existing water-related political authority or district although it may be housed in such an authority or district.

District’s Powers:

- Receive and disburse a sales tax;
- Call for a confirming election with respect to the sales tax for the implementation of the HCP and any Subsequent Project. The cost of the election will be borne by the respective beneficiaries of the sales tax;
- Enter into contracts and interlocal agreements with respect to the receipt and distribution of the sales tax; and
- Retain a Manager and such staff as required to maintain accounting records and assist in the disbursement of funds.

The Sales Tax:

- The sales tax will be collected only in the counties in the current boundaries of the Edwards Aquifer Authority jurisdiction and all counties contiguous to the lower Guadalupe and San Antonio rivers. These counties include: Bexar, Caldwell, Calhoun, Comal, DeWitt, Goliad, Gonzales, Guadalupe, Karnes, Kendall, Medina, Refugio, Victoria, Wilson, and Uvalde counties and the portion of Hays County within the jurisdiction of the Edwards Aquifer Authority.
- The sales tax rate will be set by the State of Texas.
- The sales tax will be authorized for up to 1/4 of 1% and will allow for the collection of 1/8 of 1% to fund the HCP, conditioned on the approval of a majority vote of the voters in the jurisdiction of the District.
- Collection of any subsequent funding (from the remaining 1/8 of 1%) for Subsequent Projects as defined in (2) above must be authorized by the Legislature and approved of a majority vote of all citizens in the new District’s jurisdiction.
- This sales tax will be separate from and in addition to the 2% sales tax that localities and municipalities are currently authorized to collect. Consequently, the District’s collection of the sales tax will not limit the ability of these entities to collect a sales tax.

¹ This can easily be drafted as a “bracket” bill which will give us until march 11 to get it introduced and not require a notice of intent to be filed.

Duration of the sales tax:

- The duration of the sales tax for the implementation of the HCP will be, at a minimum, the life of the HCP which is currently set for 15 years.
- The duration of the sales tax for Subsequent Projects will be determined by the Legislature

The District's Governance:

- The District will have a Board consisting of the appointee of the County Commissioner's Court of each county in the District. The Board's sole purpose will be to ensure that the revenues received from the sales tax and other sources are being spent for their intended purposes as set out respectively in the Implementing Agreement and HCP and the Plan for any Subsequent Project.
- The Manager of the District shall oversee the distribution of all revenues and receive reports from the entities receiving the revenues.

Distribution of the Sales Tax for the Purpose of Implementing the HCP:

- Each year, beginning within 30 days after the confirming election, the HCP Oversight Board shall prepare and submit to the District a work plan and budget for the next 12 month period.
- Each year, beginning 15 months after the initial receipt of revenues and annually thereafter, the HCP Oversight Board shall prepare and submit to the District a report on the previous year's implementation of the HCP, including an audited accounting for all monies spent.
- The District will disburse all revenues received to the political subdivisions identified designated by HCP Oversight Board in its budget and work plan as responsible for the implementation of elements of the HCP.
- The HCP Oversight Board shall consist of the cities of New Braunfels and San Marcos, the Edwards Aquifer Authority, any other Applicant for the Incidental Take Permit and two signatories to the Edwards Aquifer Recovery Implementation Program's ("EARIP's) Implementing Agreement appointed by the EARIP Steering Committee.

Distribution of the Sales Tax for the Purpose of Implementing Subsequent Projects:

- The Sponsoring Entity (or Sponsoring Entities) for a Subsequent Project must be a political subdivision identified by the Legislature as responsible for the implementation of the Plan for the Subsequent Project.
- Each year, beginning within 30 days after the confirming election, the Sponsoring Entity (or Sponsoring Entities) shall prepare and submit to the District and a work plan and budget for the next 12 month period.

- Each year, beginning 12 months after the initial receipt of revenues and annually thereafter, the Sponsoring Entity (or Sponsoring Entities) shall prepare and submit to the District a report on the previous year's implementation of the HCP, including an audited accounting for all monies spent.
- The District will disburse all revenues received to any political subdivisions identified designated by Sponsoring Entity (or Sponsoring Entities) in its budget and work plan as responsible for elements of the Plan.

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