

## **BILL ANALYSIS**

C.S.H.B. 1657  
By: Hope  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Since the passage of the Clean Water Act of 1972 the Texas Water Development Board (TWDB) and its predecessor agencies have administered the Environmental Protection Agency's (EPA) Construction Grants Program in Texas. This program, from fiscal years 1972 to 1989, funded wastewater projects in Texas totaling \$1.6 billion. The grants program evolved into the Clean Water State Revolving Fund loan program, which was created by Congress in 1987, and operates as a federally-subsidized, state-run, loan program today for wastewater projects. Section 16.093, Texas Water Code, authorized TWDB to participate with EPA on the Construction Grants Program.

The old construction assistance program that ended in 1989 required local governments receiving a federal construction grant through the TWDB to pay the agency a grant processing fee, but TWDB never collected the fee.

With the completion of the last construction grant project several years ago, the TWDB in February 2005 abolished its administrative rules related to the program.

Congress, at various times, provides State and Tribal Assistance Grants (STAG) to cities to be administered by EPA. These projects can be for water and/or wastewater projects. EPA may use up to three percent of each grant as a grant to the state to administer and oversee the STAG projects. In return for receiving the three percent administrative grant, the state assumes all major oversight roles relating to the planning, design, and building phases of the special projects. TWDB interpreted Sec. 16.093, Water Code, to authorize the agency to participate in the EPA's STAG program, but only for wastewater projects (as per definition of "treatment works" and "water quality enhancement" in Sec. 17.001, Water Code), but not water supply projects or water-wastewater combination projects. TWDB was encouraged by EPA to apply for STAG funding to administer water or water/wastewater projects in Texas, but TWDB did not believe it had authority to do so because of the limitations in Sec. 16.093.

This bill amends Sec. 16.093, Water Code, to clarify and broaden the TWDB's authority to receive federal grant, loan and other assistance from any federal agency for water supply projects, treatment works, or structural or nonstructural flood control measures. The amendment will provide needed authority for the TWDB to administer the EPA STAG water and wastewater projects in Texas, which benefit local governments and other entities, and also provides sufficient flexibility so that it can be used for other water-related projects in the future. The bill also repeals Sec. 16.093 (b) and (c) which refer to a grant processing fee associated with the construction grant program which ended in 1989.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1657 expands the types of agreements for federal assistance that TWDB can enter into with EPA or other federal agencies to include loans and other assistance awarded to state governments or other persons for water supply projects, treatment works, or flood control measures. The bill authorizes the executive administrator of TWDB to execute agreements with EPA or other

federal agencies to participate in the assistance programs, and allows TWDB to accept and use federal funds for the programs.

H.B. 1657 eliminates the grant processing fees currently required under Water Code, sec. 16.093(b) and (c).

#### **EFFECTIVE DATE**

H.B. 1657 takes effect immediately if it receives 2/3rds vote in both chambers, otherwise it is effective Sept. 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute amends the introduced version of the bill by specifying that TWDB may accept and use federal funds only for water supply projects, treatment works, or flood control measures. The substitute also clarifies that this Act does not affect the power of any state agency other than the TWDB to obtain and use federal funds.