

## **BILL ANALYSIS**

C.S.H.B. 865  
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Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The rural water assistance fund was created as a means to set aside funds at the Texas Water Development Board (TWDB) for water and wastewater projects in rural communities. Although rural borrowers may obtain financing through other funds administered by the TWDB, it can be difficult to determine which program best suits a rural borrower's needs. It can also be challenging for a small rural community to compete with a larger city for funding.

Interested parties contend that expanding the fund in order to streamline and consolidate the various programs available to rural communities would make it easier to access affordable financing for water and wastewater projects. It is asserted that the funding expansion will also provide a mechanism for the legislature to set aside money for the state water plan and other projects so that a rural political subdivision does not have to compete with a larger city to obtain financing for these projects. C.S.H.B. 865 seeks to change provisions relating to the fund in order to consolidate the different types of funding options available at the TWDB to rural political subdivisions.

### **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**

C.S.H.B. 865 amends the Water Code to specify that money in the rural water assistance fund that is directly appropriated to the Texas Water Development Board (TWDB) is for a purpose of the fund. The bill expands the composition of the fund by adding money transferred to the fund from the water assistance fund, including proceeds from the sale of political subdivision bonds by the TWDB to the Texas Water Resources Finance Authority that are deposited in the water assistance fund; money from gifts, grants, or donations to the rural water assistance fund; and any other fees or sources of revenue that the legislature may dedicate for deposit to the fund.

C.S.H.B. 865 expands the water or water-related projects and the water quality enhancement projects for which the fund may be used to provide low-interest loans to rural political subdivisions to include the construction of infrastructure facilities for wholesale or retail water or sewer service; desalination projects; the purchase or lease of water well fields, rather than the purchase of well fields; and property necessary for water well fields. The bill expands the uses for which the fund may be used to provide low-interest loans to rural political subdivisions to include water projects included in the state water plan or a regional water plan; development of groundwater sources and acquisition of water rights, including groundwater and surface water rights; the acquisition of retail public utilities; the acquisition of water supply or sewer service facilities or systems owned by municipalities or other political subdivisions; construction, acquisition, or improvement of water and wastewater projects to provide service to an economically distressed area; and planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a project. The bill, in a

provision authorizing the fund to be used to enable a rural political subdivision to obtain water or wastewater service supplied by other political subdivisions or to finance the consolidation or regionalizing of neighboring political subdivisions, or both, makes that authorized use of the fund one of the uses for which the fund may provide low-interest loans to rural political subdivisions and removes the specification that the other political subdivisions supplying water or wastewater service be larger than the rural political subdivision. The bill authorizes the fund to be used to provide zero interest loans, negative interest loans, loan forgiveness, or grants for any of the above purposes under criteria developed by the TWDB.

C.S.H.B. 865 replaces a provision authorizing the fund to be used to finance an outreach and technical assistance program to assist rural political subdivisions in obtaining assistance through the fund and a provision authorizing the TWDB to use money in the fund to contract for such outreach and technical assistance with a provision authorizing the TWDB to use money in the fund to contract for outreach, financial, and technical assistance to assist rural political subdivisions in obtaining and using financing from the fund. The bill authorizes a rural political subdivision to enter into an agreement with another rural political subdivision, in addition to a federal or state agency, to submit a joint application for financial assistance under provisions relating to the fund. The bill authorizes the TWDB to coordinate its review of a submitted application with a federal agency to avoid duplication of efforts and costs.

C.S.H.B. 865 authorizes the TWDB, in addition to any other method of providing financial assistance authorized by provisions relating to the fund, to make financial assistance available to an applicant that is a nonprofit water supply or sewer service corporation by entering into a loan agreement with the applicant. The bill requires the applicant, in order to be eligible to receive financial assistance, to execute a promissory note for the full amount of the loan and provide to the TWDB an attorney's opinion stating that the applicant has the authority to incur the debt. The bill provides that an applicant for financial assistance is not required to appoint or employ a bond counsel or a financial advisor.

C.S.H.B. 865 expands the applicable definition of "federal agency" to mean an agency or other entity of the United States, including the United States Department of Agriculture or an agency or entity that is acting through or on behalf of that department, rather than only an agency or other entity of the United States Department of Agriculture or an agency or entity acting through or on behalf of that department. The bill defines "nonprofit water supply or sewer service corporation" and makes a conforming change.

#### **EFFECTIVE DATE**

September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 865 differs from the original by specifying that money in the rural water assistance fund that is directly appropriated to the Texas Water Development Board (TWDB) is for a purpose of the fund, whereas the original removes money directly appropriated to the TWDB from the composition of the fund and adds money transferred to the fund at the direction of the legislature to the fund's composition.