

SUBJECT: Authorizing TWDB to refer complaint investigations to other agencies

COMMITTEE: Natural Resources — favorable, with amendment

VOTE: 6 ayes — Puente, Callegari, Hope, Bonnen, Geren, Laney

0 nays

3 absent — Campbell, Hardcastle, Hilderbran

WITNESSES: For — Cyrus Reed, Texas Center for Policy Studies

Against — None

On — Ken Petersen, Texas Rural Water Association; Kevin J. Ward,
Texas Water Development Board

BACKGROUND: The Texas Water Development Board (TWDB) was created in 1957 as the state's water planning and financing agency. Its two main goals are to plan and guide development and management of Texas' water resources and to provide financing for water supply and quality projects. TWDB administers programs to provide grants to water supply corporations to improve water and wastewater services to disadvantaged communities around the state, including rural communities, *colonias*, and other low-income communities.

TWDB's complaint process involves the submission of formal written complaints to the agency's communications division. The communications division then refers the complaints to the appropriate program for evaluation. A written response is sent to the party filing the complaint that either contains a resolution to the complaint or indicates when a resolution may be expected. Currently, TWDB does not have the authority to refer grant applicants or recipients who are the subject of complaints to other state agencies for further investigation or the imposition of a penalty.

DIGEST: HB 1462, as amended, would authorize TWDB to refer cases to the State Auditor's Office, the Texas Rangers, or another state agency for the investigation of a complaint or the initiation of an enforcement action against an applicant or recipient of financial assistance. The executive

administrator would be charged with the responsibilities of sending the referral to the appropriate agency, monitoring the progress of the investigation or enforcement action, and reporting to the board on a quarterly basis.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 1462, as amended, would increase the accountability of applicants and recipients of financial assistance by allowing TWDB to transfer complaints against these entities to regulatory agencies that have enforcement mechanisms at their disposal. In some cases, non-profit water supply corporations improperly have managed TWDB grant funds that were intended to fund infrastructure improvements in economically disadvantaged communities. Currently, following a complaint, TWDB must depend upon the accuracy of audits performed by these corporations themselves because it cannot request an audit from an impartial third party such as the State Auditor's Office. HB 1462 would allow a third party to conduct a reliable audit in a manner more amenable to all parties.

Many problems have arisen in the past as a result of TWDB's inability to refer complaints and enforcement actions to other state agencies, including the loss of millions of dollars due to questionable audit reports compiled by water supply corporations. Certain water supply corporations have received numerous complaints from citizens who pay fees for services that are not adequately rendered. HB 1462 would authorize TWDB to refer rogue water supply corporations to regulatory agencies for enforcement of penalties or further investigation of their practices.

Other non-regulatory state agencies have the authority to refer entities that have received complaints to a more appropriate agency for investigation and imposition of a penalty. Transferring complaints against applicants and recipients of financial assistance to agencies that were better equipped to address the complaints would shed light on practices of fraud and mismanagement inside the ranks of entities that had applied for and/or received grants from TWDB.

OPPONENTS
SAY:

TWDB is an agency intended to provide assistance and information regarding water issues in Texas. HB 1462 would interfere with TWDB's purpose by giving the agency responsibilities generally assigned to regulatory agencies. TWDB has been operating smoothly since its creation in 1957 as the state's water planning and financing agency without having to refer its applicants to outside parties for punishment. If TWDB suspects an applicant has improperly used grant funds, it can simply deny that applicant future agency funding.

NOTES:

The committee amendment would allow for immediate effect.