

AGENDA ITEM MEMO

BOARD MEETING DATE: November 17, 2022

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel

FROM: Kendal Kowal, Assistant General Counsel

SUBJECT: Memorandum of Understanding related to Interregional Water Supply
Projects

ACTION REQUESTED

Consider authorizing the Executive Administrator (EA) to execute the Memorandum of Understanding (MOU) between the Texas Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ).

BACKGROUND

The 86th Legislature enacted House Bill (HB) 1052, amending applicable statutes related to the State Participation Program. Changes made by HB 1052 included adding interregional water supply projects as eligible projects for funding through State Participation. HB 1052 required the TWDB and TCEQ to “enter into a memorandum of understanding for the expedited approval of permits for projects selected under this section” (codified as Texas Water Code § 16.145(b)).

KEY ISSUES

The MOU outlines the responsibilities of the TWDB and TCEQ related to interregional water supply projects funded through the State Participation Program and specifies that the TCEQ will, to the extent allowed by law, provide expedited review of permit applications for those projects.

Once approved and executed, the MOU will be placed in TWDB rules, as required by Texas Water Code § 6.104. The EA will bring that proposed rulemaking before the Board at a later date.

RECOMMENDATION

Staff recommends authorizing the EA to execute the MOU to meet the requirements of HB 1052.

Attachment:

1. Memorandum of Understanding

**Memorandum of Understanding Between the Texas Water Development Board and
the Texas Commission on Environmental Quality Related to Expedited Permit
Review for Interregional Water Supply Projects**

(a) This Memorandum of Understanding (“Agreement”) is between the Texas Water Development Board (“TWDB”) and the Texas Commission on Environmental Quality (“TCEQ”), each an agency of the State of Texas.

(b) Whereas, the TWDB provides financial assistance for the construction, acquisition, or improvements of water supply projects, including through the State Participation Program,

(c) Whereas, the TCEQ conducts reviews and issues permits for certain aspects of the construction, acquisitions, or improvements for water supply projects,

(d) Whereas, the 86th Legislature, R.S. passed and the governor signed House Bill 1052, which was effective September 1, 2019,

(e) Whereas, House Bill 1052 added certain interregional water supply projects as projects eligible for State Participation funding from the TWDB,

(f) Whereas, House Bill 1052 required the TWDB and TCEQ to enter into a memorandum of understanding for the expedited approval of permits for such interregional water supply projects funded by TWDB through the State Participation Program,

(g) Now, therefore, in consideration of the benefits to the State of Texas, the TWDB and TCEQ hereby agree as follows:

(1) The TCEQ will, to the extent allowed by law, provide expedited review of permit applications for interregional water supply projects as provided by Texas Water Code, Section 16.145.

(2) The TWDB will, to the extent allowed by law, provide information to the TCEQ related to interregional water supply projects identified under Texas Water Code, Section 16.145 to ensure that TCEQ’s review of permit applications associated with such projects can be conducted on an expedited basis.

(3) General conditions:

(i) This Agreement may be amended by mutual agreement of the TWDB and TCEQ in accordance with applicable law.

(ii) This Agreement may be terminated by either party upon written notice to the other party and in accordance with applicable law.

(iii) Any written notices required by this Agreement shall be addressed to the respective party as follows:

- (A) Executive Director, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087;
- (B) Executive Administrator, TWDB, P.O. Box 13231, Austin, Texas 78711-3231.