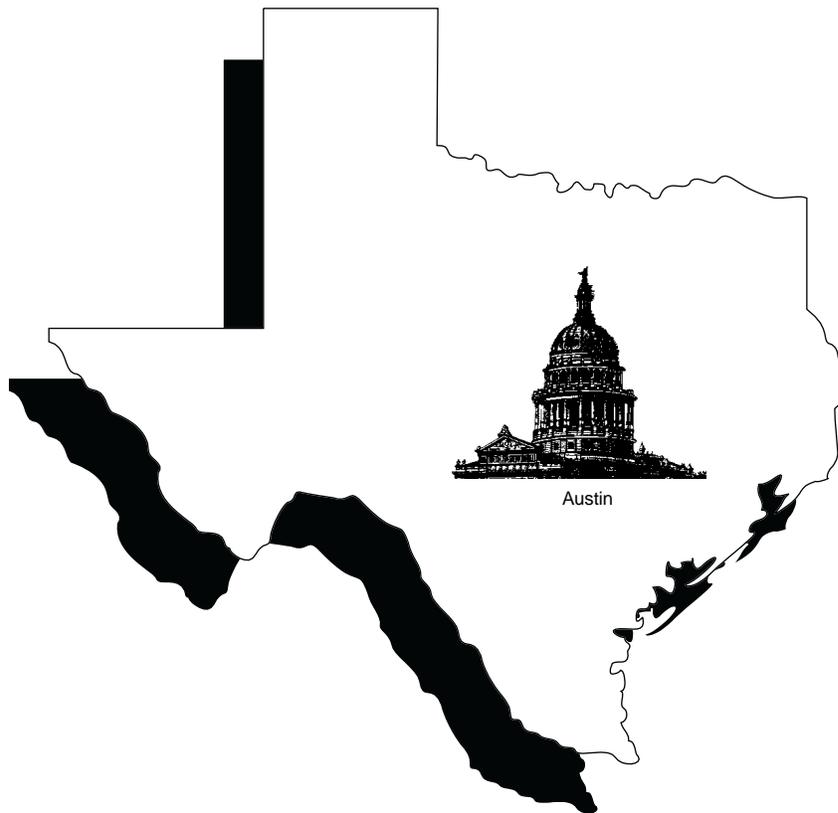


Sunset Advisory Commission



Coastal Coordination Council



Staff Report

2000

SUNSET ADVISORY COMMISSION

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them. This report is the Commission staff's recommendations, which serves as the starting point for the Commission's deliberations.

COASTAL COORDINATION COUNCIL

SUNSET STAFF REPORT

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SUMMARY

Summary

Overview

The Coastal Coordination Council fulfills the promise of delivering a coastal management program without adding an additional bureaucratic layer for private or public projects in the coastal zone. It serves its mission by linking the efforts of seven existing agencies with authority over the Texas coast, with the General Land Office providing staff and administrative support. This “networked” approach provides a forum for local governments, businesses, and other users of coastal resources to address the many problems affecting the Texas coast. Further, it allows the State to develop a coordinated, unified approach when dealing with federal and local agencies, and to access federal funds for coastal improvement projects.

Public participation is an important element of the State’s Coastal Management Program. The recommendations contained in this report are designed to improve the Council as a forum for receiving input from the public and raise the level of public and local government participation in the development of the State’s Coastal Management Program.

With approval of the State’s Coastal Management Program in 1997, Texas began receiving approximately \$2 million a year in federal grants. The Council passes these funds through to local governments and other entities for coastal projects, such as construction of public facilities for recreation and public access. If the coastal region continues to grow as expected, Texas will face challenges to prevent loss or degradation of wetlands, dunes, water quality, and public shoreline access. The recommendations should prepare the Council to address these issues through existing and potential funding initiatives. A summary of the key recommendations and findings for each of the issues identified in this report is outlined below.

Issues / Recommendations

Issue 1 Texas Has a Continuing Need for the Coastal Coordination Council.

Key Recommendation

- Continue the Coastal Coordination Council for 12 years.

Key Findings

- The Coastal Coordination Council is the State’s chosen vehicle for administering a coastal management program.
- All coastal states but one have established federally-approved coastal management programs.
- The Council coordinates the State’s coastal management activities without additional bureaucratic layers or high cost to the State.

Issue 2 The Council Has Not Taken Full Advantage of Public Input in Coastal Management Efforts.

Key Recommendations

- Add two members to the Council to increase public and local government representation.
- Allow any one member to refer consistency issues to the full Council.
- Require at least one meeting per year to have an open agenda format.

Key Findings

- State and federal law require public participation in the ongoing development of the Coastal Management Program.
 - The Council does not receive the public input it needs solely from its four citizen members.
-

Issue 3 The Council's Statute Does Not Reflect Its Role as a Grant-Making Agency.

Key Recommendation

- Add the Council's grant-making responsibility to its enabling law.

Key Findings

- Although small compared to many state programs, the Council's grant program is a vital part of Texas' coastal management efforts.
- The Council lacks statutory guidance for its grant-making responsibility.
- The Council has the ability to use its grant program to address the State's long-term coastal needs.

Fiscal Implication Summary

One recommendation will have a fiscal impact to the State.

- Issue 2 - Adding two members to the Council would have a fiscal impact to the State, resulting from travel expenses for attending meetings. These costs are estimated at \$5,600 annually.

ISSUES / RECOMMENDATIONS

Issue 1

Texas Has a Continuing Need for the Coastal Coordination Council.

Summary

Key Recommendation

- Continue the Coastal Coordination Council for 12 years.

Key Findings

- The Coastal Coordination Council is the State's chosen vehicle for administering a coastal management program.
- All coastal states but one have established federally-approved coastal management programs.
- The Council coordinates the State's coastal management activities without additional bureaucratic layers or high cost to the State.

Conclusion

Texas administers its coastal management program by linking the efforts of seven existing agencies with authority over the Texas coast, rather than creating a new agency. This "networked" approach provides a forum for local governments, businesses, and other users of coastal resources to address the many problems affecting the Texas coast. This approach increases the State's response to priority coastal issues, including coastal erosion, wetlands protection, water quality, dune protection, and shoreline access. Further, it allows the State to develop a coordinated, unified approach when dealing with federal and local agencies, and to access federal funds for coastal improvement projects.

The Sunset review evaluated the continuing need for a state entity to oversee a coastal management program. The review assessed the State's "networked" approach to coastal management and how other states address their coastal issues.

Support

The Council provides a forum to address problems affecting the Texas coast.

Current Situation: The Coastal Coordination Council is the State's chosen vehicle for administering a coastal management program.

- In 1991, the Legislature passed the Coastal Coordination Act, creating the Council and directing it to develop a coastal management program for approval under the federal Coastal Zone Management Act. The State's approach was to develop and implement a program by linking the efforts of seven existing agencies with authority over the Texas coast, rather than creating a new agency. The Governor submitted the program to the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) for its approval. NOAA approved Texas' program in 1997.
- Today, the Council provides a forum for local governments, businesses, residents, and other users of coastal resources to address the problems affecting the Texas coast. The Council addresses these problems, such as erosion, destruction of wetlands, shoreline access, and water quality, by distributing grants to coastal communities, and by reviewing permit actions for consistency with the coastal management program.

Comparison: All coastal states but one have established federally-approved coastal management programs.

- The federal Coastal Zone Management Act does not mandate that coastal states develop coastal management programs. Rather, it provides incentives, such as federal grants, to encourage states to do so. Of the 35 eligible states and territories, only Illinois does not have a federally approved coastal management program.¹ All other Great Lakes states, and Atlantic, Pacific, and Gulf coast states have an approved program.
- Federal law gives each coastal state wide discretion to tailor its program to suit its natural resources, economy, political culture, and other individual needs. Consequently, programs vary among states. Some states, such as California and Louisiana, adopted centralized programs by creating a new state coastal agency or a new requirement for a coastal-specific permit. Other states developed programs on existing structures, resulting in decentralized efforts linking existing agencies with statewide jurisdiction to implement their coastal management programs. Texas, Florida, and Alaska are examples of this "networked" approach.

Need: The Council coordinates the State's coastal management activities without additional bureaucratic layers or high cost to the State.

- The fragmented nature of government jurisdiction over coastal resources in Texas led the Legislature to create the Council in 1991. Before that, coastal problems such as erosion and loss of wetlands fell under the jurisdiction of multiple state or federal agencies or local governments that lacked a common mission or approach. The Council addresses this problem by providing a forum for stakeholders to address key agency decision makers at one time, and for agencies to address differences over interpretation and application of coastal policy. This coordinated approach increases the State's response to priority coastal issues, including coastal erosion, wetlands protection, water quality, dune protection, and shoreline access. Further, it allows the State to develop a coordinated, unified approach when dealing with federal and local agencies.
- Interagency coordination extends into the day-to-day interaction between staff of the member agencies. The Council's Executive Committee holds public meetings to discuss coastal policy and make recommendations to the Council. In addition, Executive Committee members and other agency staff meet in working groups to discuss Council activities, such as coastal nonpoint source pollution control, permit streamlining, and grants.
- By having an approved program, Texas benefits in two ways. First, the State receives almost \$2 million per year in federal grants for coastal communities to implement coastal management projects. Second, the Coastal Management Program and the Council provide the authority and opportunity to review federal actions that affect the Texas coast to ensure consistency with the State's objectives. For details on Council grants and review of federal actions, refer to the *Council Information* section of this report.
- Because the Legislature did not vest the Council with additional regulatory authority, it has resulted in no added burden on the regulated community. The Legislature addressed concerns that the Council would create an additional regulatory layer for business by enacting statutory safeguards that limit the Council's ability to question state agency actions.² In addition, the law prohibits the Council from adopting a coastal management policy that would make an agency do something beyond its current authority.³
- The cost to the State of supporting the Council is minimal. The General Land Office (GLO) reports staff time spent on Council activities to fulfill the state match required to receive federal grant

An approved coastal management program means federal grants for coastal communities and the ability to review federal actions.

dollars. Since its inception, the program has brought in \$8.7 million, with \$1.9 million in state match. In fiscal year 1999, the State used GLO staff salaries totaling \$447,266 to fulfill the match requirement. The State received just more than \$1.6 million in federal funds for its Coastal Management Program in fiscal year 1999. The other agencies on the Council do not track and report staff time related to Council activities because these activities fall within the agencies' normal duties.

Recommendation

Change in Statute

1.1 Continue the Coastal Coordination Council for 12 years.

Impact

This recommendation would allow Texas to continue coordinating existing federal, state, and local activities affecting the coast. This recommendation would continue the current approach to administering the Texas Coastal Management Program through “networked” agencies rather than vesting authority in a single agency.

Fiscal Implication

Continuing the Coastal Coordination Council would have no significant fiscal impact to the State. The Council receives no state appropriation, but its activities are funded through an appropriation to the Texas General Land Office. In fiscal year 1999, GLO reported state spending of \$447,266 to fund Council activities, which accounted for the state match required to receive federal grant funds under the Coastal Management Program. If the Council is continued, funding through GLO would continue to be needed to fund the Council's activities.

¹ For more information on other states' coastal management programs, visit the National Oceanic and Atmospheric Administration's website at <http://wave.nos.noaa.gov/ocrm/czm/>.

² Texas Natural Resources Code, ch. 33, sec. 33.2052 requires the Council to adopt consistency review thresholds, below which the Council has almost no ability to review an agency's actions. If an action is based on a rule that has already been certified as consistent with the Coastal Management Program, then the action is deemed consistent.

³ Texas Natural Resources Code, ch.33, sec. 33.204(a).

Issue 2

The Council Has Not Taken Full Advantage of Public Input in Coastal Management Efforts.

Summary

Key Recommendations

- Add two members to the Council to increase public and local government representation.
- Allow any one member to refer consistency issues to the full Council.
- Require at least one meeting per year to have an open agenda format.

Key Findings

- State and federal law require public participation in the ongoing development of the Coastal Management Program.
- The Council does not receive the public input it needs solely from its four citizen members.

Conclusion

Public participation is an important element of the State's Coastal Management Program. However, other than the Council's quarterly meetings, the public has limited opportunities to inform the Council about issues of coastal concern. These recommendations will improve the Council as a forum for receiving input from the public and raise the level of public and local government participation in the ongoing development of the State's Coastal Management Program by adding a public member and a second local government representative. Allowing any one member to refer consistency questions directly to the Council would provide a direct method for the Council to hear issues of coastal concern, without affecting the safeguards that prevent the Council from second-guessing a state agency action. Finally, an annual open agenda meeting would provide a clear channel for the Council to hear what ordinary citizens consider to be issues of coastal concern.

Support

Local government and public participation is an important part of the State's Coastal Management Program.

Current Situation: State and federal law require public participation in the ongoing development of the Coastal Management Program.

- Developing a long-term plan to manage the State's coastal natural resources is a dynamic and ongoing process. The Legislature has recognized the importance of public involvement and has statutorily required public participation in developing, reviewing, or amending the Texas Coastal Management Program.¹
- One of the goals of the program is to “make coastal management processes visible, coherent, accessible, and accountable to the people of Texas by providing for public participation in the ongoing development and implementation of the Coastal Management Program.”² Another goal is to educate the public.
- The federal Coastal Zone Management Act, which provides the foundation for the State's program, requires local government and public participation in the State's coastal management decisions.³ To maintain federal approval, states periodically submit status reports to the National Oceanic and Atmospheric Administration (NOAA), which reviews each state program for compliance with federal requirements.

Problem: The Council does not receive the public input it needs solely from its four citizen members.

- The Council is composed of 11 members, seven agency heads and four citizen members from the coast. The citizen members are a local government official, a business leader, an agricultural representative, and a coastal resident. Three of these Governor-appointed members - representing agriculture, business, and local government - each have interests that are directly affected by matters under the Council's review.

A standard Sunset recommendation applied to all state agencies requires one-third public membership on state policymaking bodies. Public members cannot represent interests or entities directly affected by the agency. The Council's unique composition as a blend of Governor appointees and state agency heads causes difficulty in assessing whether the Council fulfills the public membership standard. However, the Governor-appointed “citizen members” do not rise to the level of the dispassionate public member traditionally envisioned by the Sunset Commission and the Legislature.

- The Council has relied on its four citizen members to fulfill public input requirements to maintain federal approval. For example, the Council has reported to NOAA that work sessions provide the “greatest amount of opportunity for public input.”⁴ However, work sessions are not open to the public and typically involve agency staff and one or two citizen members of the Council.

The Council’s Executive Committee, comprised of agency staff and the four citizen members, holds quarterly public meetings to discuss coastal issues and make recommendations to the Council. While these meetings are open to the public, they do not provide direct public input to the Council’s seven ex officio state agency members.

- The coastal zone includes 18 counties and spans 370 miles of Gulf shoreline. Coastal Communities from Port Arthur to South Padre Island face a wide variety of issues. Yet, the Council includes only one local government official.
- The general public has a difficult time raising consistency questions for the Council’s review. Consistency review is one of the Council’s main functions, by which it ensures that governmental actions - primarily by the federal government - conform with the State’s plan for the coast. Through its rules, the Council requires a member of the public to request a consistency review within 10 days of an action being proposed. In addition, three Council members must agree within 13 days of the proposed action to refer the matter to the full Council for review. Since its inception, the Council has never formally reviewed a state or federal action, although Council members and staff have informally resolved potential consistency issues.
- The Council has not appointed advisory committees even though it has statutory authority to do so. Without input from advisory groups, the Council misses a valuable source of information that proved useful in the development of the State’s two national estuary programs, the Galveston Bay and the Coastal Bend Bays programs.⁵ One impediment to establishing advisory committees may be a limitation in statute that advisory group members must live along the coast.
- Council agendas are driven primarily by the agencies, often leaving little time and attention for issues that are important to the public. The Council has never taken advantage of an open agenda meeting, similar to the Texas Parks and Wildlife Department’s annual meeting,⁶ that would give the public an opportunity to bring important issues to the Council.

The Council’s citizen members are not the same as public members traditionally placed on policymaking bodies.

Recommendation

Change in Statute

2.1 Add two members to the Council to increase public and local government representation.

This recommendation would bring the total number of Council members to 13, with six members appointed by the Governor and seven agency heads. Specifically, the recommendation would require the Governor to appoint two additional members, one representing the public's interest in preserving coastal natural resources, and the other a local government elected official who resides in the coastal region.

The new public member would be required to have a demonstrated interest in preserving and maintaining the coastal region's ecological, aesthetic, and recreational value, but would not be required to live in the coastal zone. The recommendation would also add a local government elected official, bringing the total number of local government representatives on the Council to two.

2.2 Remove the requirement that advisory committee members reside in the coastal region.

This recommendation would not change the Council's current statutory authority to create advisory committees as needed, but would open the potential pool of advisory committee members to any person with expertise in coastal matters.

2.3 Allow any member of the Council to refer a consistency issue to the full Council.

This recommendation would remove the requirement that three members must agree to refer a consistency issue before the Council can review it. This recommendation would not change existing statutory provisions designed to prevent delays from separately reviewing actions approved under state agency rules deemed consistent with the Coastal Management Program. As a result, this recommendation would not cause any additional reviews of state agency actions. It could, however, result in the Council having to meet to review a federal agency action for consistency with the program goals and policies, if a Governor-appointed member or a state agency ex officio member refers an issue to be reviewed. Any review of a federal action would be subject to the existing procedural safeguards, such as the 45-day time limit for the Council to make its determination, designed to prevent undue delays of proposed activities.

2.4 Require at least one meeting per year to have an open agenda format.

This recommendation would require the Council to hold one meeting a year with an open agenda format similar to that of Texas Parks and Wildlife Department. Because the Council typically has a heavy workload at each of its four annual meetings, it should determine for itself how and when to conduct this open agenda meeting.

Impact

These recommendations will improve the Council as a forum for receiving input from the public on issues of coastal concern. These recommendations are intended to raise the level of public and local government participation in the ongoing development of the State's Coastal Management Program by adding a public member and a local government representative, and by giving each member the ability to refer consistency questions to the full Council. This change would make consistency issues regarding federal actions easier to raise to the Council's attention without changing the procedural safeguards that prevent these reviews from unnecessarily delaying the approval of coastal projects.

The recommendation to open up the potential pool of advisory committee members would allow the Council to take advantage of existing groups without having to create new ones, and utilize expertise from universities or organizations throughout the state. Finally, an annual open agenda meeting would provide a clear channel for the Council to hear what ordinary citizens consider to be issues of coastal concern. One option for the Council is to rely more heavily on its Executive Committee to take on a greater workload to free the Council for one meeting. Another option is to hold the open agenda meeting in conjunction with the General Land Office's annual coastal conference.

Fiscal Implication

The recommendation to add two members to the Council would result in costs associated with travel to attend Council meetings. By law, Council members attend four meetings a year. However, Governor-appointed members also attend the Council's four annual Executive Committee meetings as well. Two members attending eight meetings a year at \$200 per meeting, plus an average of six additional workgroup meetings, would result in added costs of \$5,600 per year.

Fiscal Year	Cost to General Revenue Fund	Change in FTEs From FY 2001
2002	\$5,600	0
2003	\$5,600	0
2004	\$5,600	0
2005	\$5,600	0
2006	\$5,600	0

¹ Texas Natural Resources Code, ch. 33, sec. 33.055. "In developing, reviewing, or amending the coastal management program, after due notice to affected persons and the public generally, the commissioner and the council shall hold or have held public hearings as the commissioner and the council determine to be appropriate."

² Texas Coastal Management Program Goals, 31 TAC 501.12(9).

³ Coastal Zone Management Act of 1972, Sec. 303(2)(I).

⁴ Coastal Coordination Council, Final Workplan submitted to the National Oceanic and Atmospheric Administration Coastal Zone Management Program, February 24, 1998, p. 11.

⁵ Sunset staff interviews with Helen Drummond, Program Director, Galveston Bay Estuary Program, and Ray Allen, Executive Director, Coastal Bend Bays Estuary Program.

⁶ Texas Parks and Wildlife Code, ch. 11, sec. 11.015(b).

Issue 3

The Council's Statute Does Not Reflect Its Role as a Grant-Making Agency.

Summary

Key Recommendation

- Add the Council's grant-making responsibility to its enabling law.

Key Findings

- Although small compared to many state programs, the Council's grant program is a vital part of Texas' coastal management efforts.
- The Council lacks statutory guidance for its grant-making responsibility.
- The Council has the ability to use its grant program to address the State's long-term coastal needs.

Conclusion

With approval of the Texas Coastal Management Program in 1997, the State began receiving approximately \$2 million a year in federal grants. The Council passes these funds through to local governments and other entities for coastal projects, such as construction of public facilities for recreation and public access. If the coastal region continues to grow as expected, Texas will face challenges to prevent loss or degradation of wetlands, dunes, water quality, and public shoreline access. With these needs, and the potential for additional federal coastal initiatives, the Council should be ready to take full advantage of new programs and funding.

By adding the Council's grant-making role to its current statutory duties, the State would be in a better position to seek additional federal dollars and ensure accountability for those funds. In addition, this recommendation would provide the basis for future legislative guidance on how coastal management dollars are to be spent as new funding programs become available.

Support

With administrative support of GLO, the Council determines funding priorities and awards grants for coastal projects.

Current Situation: Although small compared to many state programs, the Council's grant program is a vital part of Texas' coastal management efforts.

- Because Texas has an approved coastal management program, the State receives approximately \$2 million per year in federal grants. The Council passes these funds through to local governments and other entities on the coast for individual projects. These projects include construction of public facilities for recreation and public access, acquisition of land for parks or preserves, creation or restoration of dunes or wetlands, shoreline erosion response planning, public education, data collection, and comprehensive planning.

Since the program was approved in 1997, 147 grants have been awarded totaling \$ 8.2 million over the course of five federal grant cycles. These grants are used for waterfront development projects such as Chambers County's boardwalk and the City of Port Arthur's public dock. Other grants have provided information for coastal management, such as the University of Texas - Bureau of Economic Geology's study of dunes along the Galveston County shoreline. Council grants have been used for public education, like the Cameron County anti-litter media campaign. Council grants have also helped to directly clean up the Texas Coast, such as the Big Bay Debris Cleanup, in which 20 Corpus Christi area entities removed abandoned and submerged boats, industrial dredging equipment, and large objects along the mid-coast. For additional information on Council grants, refer to the *Council Information* section of this report.

- With each grant cycle, the Council has taken steps to improve fairness and accountability in its grant process. These revisions improved the scoring criteria, required applicants to file a pre-proposal, and set the Council's discretionary criteria in written policy. The Council has also adopted a policy to fund projects that result in a wide geographic distribution.

Problem: The Council lacks statutory authority for its grant-making responsibility.

- Even though GLO is designated by the Governor to receive federal coastal zone management grants, the Council determines the funding priorities and awards the grants to recipients. While GLO provides the administrative support necessary to process the grant forms and obtain federal reimbursement, the Council is clearly

responsible for awarding and monitoring coastal management program grants. For example, staff from the member agencies score each grant application and make initial recommendations to the Executive Committee, which then makes a recommendation to the Council. In addition, with each new federal grant cycle, the Council makes improvements to its guidance document and scoring criteria. The Council has adopted discretionary criteria, such as a preference to fund projects undertaken by local entities and a preference not to fund operating costs.

Opportunity: The Council has the ability to use its grant program to address the State’s long-term coastal needs.

- Federal law specifies that coastal management grants be used for preservation or restoration of specific areas that have conservation, recreation, ecological or aesthetic value.¹ Yet, most Council grant dollars are used to fund construction projects. In the Council’s most recent grant cycle, 12 of 32 projects funded were construction projects. Because construction projects are typically more expensive than other projects, such as litter removal or public education, these 12 projects accounted for 55 percent of all grant dollars. Further, since the Council began receiving federal grant dollars in 1997, the largest grant category funded has been Waterfront Revitalization and Tourism, which include projects such as piers, public boardwalks, and boat ramps.

While many of these projects provide short-term economic and recreational benefits to coastal communities, and are certainly within the goals of the coastal management program, they may not provide long-term benefits to the State. While the Council tracks construction versus non-construction projects, it could improve the attention given to projects that promote conservation of the State’s coastal natural resources.

- The Council could focus beyond the limited federal Coastal Zone Management Act funds the State currently receives, to position itself to tap into additional federal programs. As coastal initiatives gain momentum in Congress, states could see new programs and funding sources. For example, Louisiana’s “Coast 2050” project uses federal funds for wetlands restoration.² Another recent example is the Conservation and Reinvestment Act, currently being considered by Congress, which proposes to return approximately \$1 billion of the revenue the federal government receives from outer continental shelf oil and gas exploration to coastal states. The funds would be earmarked for state conservation and management of coastal and marine resources. The Council should be at the center of the discussion as to the State’s overall plan for using this money.

As Coastal initiatives gain momentum in Congress, states could see new programs and funding sources.

Recommendation

Change in Statute

3.1 Add the Council's grant-making responsibility to its enabling law.

This recommendation would simply codify the Council's authority to award grants and would require the Council to adopt rules establishing the procedures for making any determination related to awarding a grant. This recommendation would not affect GLO's designation under federal rules as the single state agency responsible for receiving and administering Coastal Management Program grants. However, to the extent that additional funds become available, this recommendation would authorize the Council to receive and spend funds for any project that furthers the goal of protecting and preserving the State's coastal natural resources.

Management Action

3.2 The Coastal Coordination Council should target current grant dollars to more projects that promote conservation and preservation of coastal natural resource areas.

3.3 The Coastal Coordination Council should seek to maximize federal funds for the conservation of coastal resources.

These recommendations direct the Council to take full advantage of its coordinating and grant-making responsibilities. The Council should focus grant dollars on efforts such as acquisition of land for parks or preserves, restoration of dunes and wetlands, data collection, and comprehensive planning. As a "networked agency," with representation of the State's natural resource agencies, the Council is uniquely positioned to seek additional federal funds for identified needs. As a starting point, the Council should seek available federal funds for wetland preservation and restoration.

Impact

By adding the Council's grant-making responsibility to its current statutory duties, the State would be in a better position to seek additional federal dollars and ensure accountability for those funds. In addition, this recommendation would provide the basis for future legislative guidance on how coastal management dollars are to be spent as new funding programs become available.

The Council has successfully implemented its grant program over the past three years. However, if the coastal region continues to grow as expected, Texas will face significant challenges to prevent loss or degradation of wetlands, dunes, water quality, and public shoreline access. With these acknowledged needs and the potential for additional federal coastal initiatives, the Council should be better prepared to take advantage of new programs and funding.

Fiscal Implication

Adding the Council's grant-making responsibility to the law would have no significant fiscal impact to the State. In addition, while the potential for increased federal dollars available for coastal management initiatives is significant, this amount could not be estimated for this report.

¹ Coastal Zone Management Act of 1972, Section 306A(b)(1)

² On February 18, 2000, the New Orleans District U.S. Army Corps of Engineers and the Louisiana Department of Natural Resources signed the Coast 2050 Feasibility Cost Share Study, initiating a \$6 million wetland restoration study of the Barataria Basin. The study will be completed in September 2001. For additional information on the project, visit the project website at www.lacoast.gov/Programs/2050/Index.htm.

ACROSS-THE-BOARD RECOMMENDATIONS

Coastal Coordination Council	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Not Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Not Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply/Modify	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply/Modify	7. Require training for members of policymaking bodies.
Not Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Require information to be maintained on complaints.
Not Apply	11. Require development of an equal employment opportunity policy.

COUNCIL INFORMATION

Council Information

COUNCIL AT A GLANCE

The Coastal Coordination Council (Council) administers the Texas Coastal Management Program, linking federal, state, and local activities along the coast. The Council is a network of state agencies, each with its existing responsibilities affecting coastal natural resources. In this way, the Council relies on the activities of its member agencies to make the Coastal Management Program work without creating a new bureaucracy.

The Council's mission is to provide for effective and efficient management of coastal natural resource areas by continually reviewing the issues affecting the Texas coast, and coordinating the State's response to those identified problems.

The Council's major responsibilities include:

- reviewing government actions that affect the Texas coast and certifying that they are consistent with the Texas Coastal Management Program;
- passing federal funds through to coastal communities for projects that help control erosion, promote responsible development and coastal access, and enhance critical areas;
- helping small businesses and individuals identify and prepare the permit applications and supporting documents they need to conduct business in the coastal region; and
- preparing and submitting the Texas Coastal Nonpoint Source Pollution Control Program, as required by federal law.

Key Facts

- **Funding.** The State receives approximately \$2 million per year in federal coastal management funds, and the Council awards 90 percent of these funds as grants to coastal communities. The Council does not receive an appropriation, but its activities are funded through the Texas General Land Office (GLO).

Visit GLO's website
<http://glo.state.tx.us/coastal/ccc.html>
 for information
 about the Council
 and the Coastal
 Management
 Program.

- **Staffing.** GLO has three employees dedicated full time to Council activities. Other GLO employees support Council activities on an as-needed basis.
- **Organization.** The Legislature created the Council as a “networked” agency instead of creating a new agency to link existing state programs with authority over coastal resources.

MAJOR EVENTS IN COUNCIL’S HISTORY

In an effort to provide a more coordinated response to managing coastal resources, the Legislature, in 1989, directed the General Land Office to conduct a study and make recommendations for a coastal program. Two years later, the Legislature passed the Coastal Coordination Act, creating the Council and directing it to develop a coastal management program for approval under the federal Coastal Zone Management Act.

Major Changes to the Coastal Management Program by the 1995 Legislature

The 1995 amendments to the Coastal Coordination Act did not alter the Council’s original purpose and responsibilities, but changed the Coastal Management Program by:

- codifying provisions of the Council’s rules;
- narrowing and codifying the coastal zone;
- codifying the provisions for the Council’s consistency review of state, federal, and local government actions;
- changing the composition of the Council by removing the Attorney General and adding a member of the Texas Transportation Commission, the Texas Water Development Board, the State Soil and Water Conservation Board, and gubernatorial appointees representing agriculture and business;
- adding a requirement that the Council create a Permitting Assistance Group to assist permit applicants, particularly individuals and small businesses, with coastal environmental permitting requirements; and
- requiring the Governor to withdraw the entire Coastal Management Program if federal authorities fail to approve Texas’ Nonpoint Source Pollution Control Program.

In 1994, Governor Ann Richards submitted the program to the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) for review and approval. However, the following year, Governor George Bush withdrew the program from the federal approval process to allow for legislative review. After revisions, which are summarized in the text box *Major Changes to the Coastal Management Program by the 1995 Legislature*, the Governor re-submitted the program for approval. In 1997, eight years after the Legislature directed GLO to begin working on the program, NOAA approved the Texas Coastal Management Program.

In 1998, the Council submitted a Nonpoint Source Pollution Control Program to the U.S. Environmental Protection Agency (EPA) and NOAA for approval. If approved, Texas stands to gain additional federal dollars to abate nonpoint source pollution along the coast. If the program is not approved, the Governor is required to withdraw the entire Coastal Management Program.

ORGANIZATION

Policy Body

The Council is an 11-member body comprised of the heads of seven state agencies and four members appointed by the Governor representing various stakeholder groups. The Governor appointees include a city or county elected official who resides in the coastal area, an owner of a business located in the coastal area, a coastal area resident, and a representative of agriculture. The text box, *Coastal Coordination Council Members*, lists the members and their positions on the Council.

The Council is a “networked” agency, comprised of the heads of seven state agencies and four Governor appointees.

Coastal Coordination Council Members

David Dewhurst, Chair, ex officio, Commissioner, Texas General Land Office
 Michael Williams, ex officio, Commissioner, Railroad Commission of Texas
 Dr. William Clayton, Local Government (Galveston)
 John Barrett, Agriculture (Edroy)
 Bob Dunkin, Coastal Resident (San Benito)
 Elizabeth Nisbet, Business (Corpus Christi)
 Jack Hunt, ex officio, Texas Water Development Board
 Robert Huston, ex officio, Texas Natural Resource Conservation Commission
 John Johnson, ex officio, Texas Transportation Commission
 Vacant, ex officio, Texas State Soil and Water Conservation Board
 Mark Watson, Jr., ex officio, Parks and Wildlife Commission

The Council meets four times a year. Although not required by law, the Council holds two of its meetings in coastal communities.

Executive Committee and Staff

Each agency on the Council designates a staff person to serve on the Executive Committee, with the four Governor appointees. The Executive Committee provides a direct, day-to-day link to the networked agencies by participating in work groups, attending Council meetings, and conducting research. In addition, the Executive Committee holds its own public meetings four times a year, including two meetings in coastal communities, to discuss policy issues and make recommendations to the Council.

The Council does not have employees, but instead relies on GLO for staff and administrative support. GLO provides three full time employees to support the Council: a Council Secretary located in Austin,

and a Permit Assistance Coordinator and administrative assistant based in Corpus Christi. Staff of GLO and other member agencies work on Council activities on an as-needed basis. Because the Council does not employ its own staff, no analysis was prepared comparing its workforce composition to the overall civilian labor force.

FUNDING

The Council, with administrative support from GLO, distributes federal grant monies to coastal communities.

The Council receives no state appropriation. Its activities are funded through federal grant monies which are received and administered by GLO. Federal law requires states to provide a match to receive federal coastal management dollars. The match ratio has varied, but has phased into a one to one federal/state match. To fulfill this match requirement, the Council tracks and reports GLO staff time for Council related activities as an in-kind match. In fiscal year 1999, the State used GLO staff salaries totaling \$447,266 to fulfill the match requirement. The State received just more than \$1.6 million in federal funds for its Coastal Management Program in fiscal year 1999. Since federal approval of the program in 1997, the State has received approximately \$2 million each year in federal funds under the Coastal Zone Management Act.¹

Even though GLO receives federal coastal zone management grants, the Council determines the funding priorities and distributes the grants. In fiscal year 1999, the Council spent \$1,623,725, with almost 90 percent going to coastal communities as grants. The chart, *Coastal Coordination Council — Fiscal Year 1999 Expenditures*, shows a detailed breakdown of Council spending for fiscal year 1999.

Coastal Coordination Council Fiscal Year 1999 Expenditures	
Grants	
Waterfront Revitalization/Tourism	\$ 699,304
Wetlands Enhancement	255,413
Information and Data	222,925
Natural Hazards Response	93,780
Shoreline Access	91,206
Education and Outreach	78,584
Permit Streamlining	4,460
Water Quality	0
	\$1,445,672
Program Enhancement (federal grant)	\$ 104,457
Nonpoint Source Pollution Program	3,830
Council Administration	69,766
Total Expenditures	\$1,623,725

Almost half of all grants went to waterfront revitalization and tourism, which includes such projects as boardwalks and public boat-ramps. Lesser amounts went for grants for natural hazards response, wetlands enhancement, shoreline access, permit streamlining, information and data, and public education.

The expenditure for Program Enhancement results from a federal requirement for states to use some federal funds to enhance their programs. In Texas, this money has generally been allocated to the Texas Natural Resource Conservation Commission (TNRCC) to develop strategies for dealing with nonpoint

source pollution as part of the water quality element of the Coastal Management Program. Finally, expenditures for travel and administrative expenses of the Council amounted to just 4.3 percent of overall expenditures. The Council's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services can be seen in Appendix A.

AGENCY OPERATIONS

The Council's primary role is to administer the Texas Coastal Management Program. The program is the State's response to a federal effort to develop a coordinated approach to solving problems affecting the Texas coast. State law sets the boundary for the coastal zone and confines program activities to within this zone,² unless a project outside the boundary has a significant adverse effect on the coastal zone. The boundary is shown in the map, *Texas Coastal Management Program Boundary*. The Council administers the program through five activities:

- Consistency Review,
- Interagency Coordination,
- Administration of Grants,
- Small Business and Individual Permitting Assistance, and
- Coastal Nonpoint Source Pollution Control.

Consistency Review

The Council has the authority to review most federal and state regulatory actions that affect coastal resources and local government actions related to beachfront construction and dune protection. The purpose of this review is to ensure that the actions are consistent with the Texas Coastal Management Program. A state agency with actions subject to the program is required to submit its rules to the Council for review. In practice, however, the Council's role in reviewing state and local government permits is limited because of its reluctance to second guess a decision made by state or local officials.

The most significant opportunities for consistency reviews relate to federal agency actions in the coastal zone. The federal Coastal Zone Management Act requires federal agency decisions affecting a state's coastal zone to comply, to the maximum extent practicable, with the state's federally approved program. The Council's rules further describe the specific actions subject to consistency review and the process federal

MAP NOT AVAILABLE

agencies must follow. Four types of federal agency decisions are subject to the Coastal Management Program:

- activities undertaken directly by federal agencies, such as Army Corps of Engineers dredging of commercial navigable waterways;
- issuance of federal permits or licenses authorizing others to undertake certain activities;
- state and local government applications for federal assistance; and
- the approval of plans for oil and gas exploration and production on the Outer Continental Shelf.

By far the greatest number of federal agency decisions affecting the Texas coast are those of the Army Corps of Engineers. The Corps issues permits for construction or filling in waters of the United States, including wetlands. The Corps also engages directly in the dredging of commercially navigable waterways, including the maintenance of 770 miles of existing channels along the Texas coast. Because this is a major issue of state concern, the Council has focused its consistency review efforts almost solely on this aspect of the Corps' activities. To date, the Council has found 38 Corps projects to be consistent with the Coastal Management Program. By the end of calendar year 2000, the Council expects to have approved a total of 53 Corps dredging projects.

Because Texas has an approved coastal management program, the State has the ability to review federal actions affecting its coastal resources.

Interagency Coordination

The Council is a network of state agencies which allows it to provide a coordinated approach to decisions affecting the Texas coast. In addition to the actions of the seven state agencies on the Council, specific actions of the Texas Historical Commission and Antiquities Committee, the Public Utility Commission, the School Land Board, and boards for lease of state-owned lands are coordinated through the Council.

One way the Council facilitates interagency coordination is through the Permitting Assistance Group. This group, comprised of representatives from the member agencies, provides assistance as requested by individuals and small businesses in the coastal zone. The group identifies permitting issues such as conflicts in permitting requirements among state or federal agencies.

Grants

Because Texas has an approved coastal management program, it receives approximately \$2 million per year in federal grants. The Council passes 90 percent of these funds through to local governments and other entities on the coast for individual projects. These projects include acquisition or construction of public beach or shoreline access facilities, acquisition of land for parks or preserves, creation or restoration of dunes or wetlands, shoreline erosion response planning, public education, and data collection.

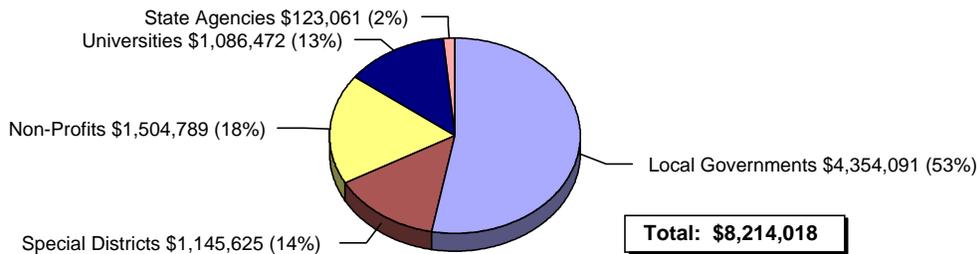
Since the program was approved in 1997, 147 grants have been awarded totaling \$8.2 million. Many Council grants help coastal communities develop their waterfronts for recreation and public access. These grants are used for construction projects such as Chambers County's boardwalk and the City of Port Arthur's public dock. Some grants provide important information for coastal management, such as the University of Texas - Bureau of Economic Geology's study of dunes along the Galveston County shoreline. Council grants have been used for public education, like the Cameron County anti-litter media campaign. Council grants have also helped to directly clean up the Texas Coast, such as the Big Bay Debris Cleanup, in which 20 Corpus Christi area entities removed abandoned and submerged boats, industrial dredging equipment, and large objects along the mid-coast.

The following entities are eligible to apply for Coastal Management Program grants:

- city and county governments in the coastal zone;
- Texas state agencies;
- Texas public universities;
- navigation districts, port authorities, river authorities, and soil and water conservation districts in the coastal zone;
- councils of governments and other regional governmental entities in the coastal zone;
- the Galveston Bay and the Coastal Bend Bays National Estuary Programs; and
- nonprofit organizations located in Texas and nominated by one of the entities listed above.

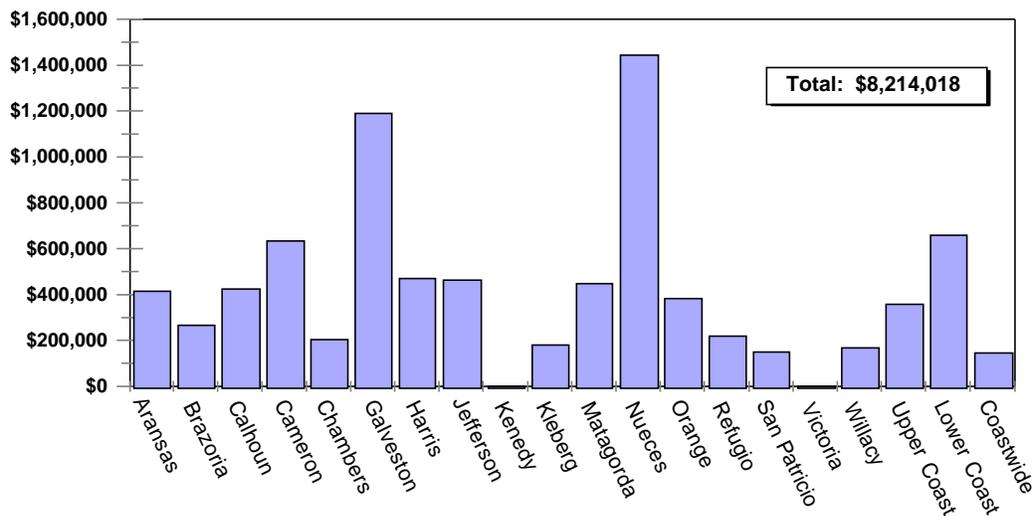
Most grant monies go to local governments. The piechart, *Coastal Management Program Dollars Awarded by Entity — 1997 - March 2000*, shows the breakdown of grant awards by entity since the program started in 1997.

**Coastal Management Program Dollars Awarded by Entity
1997 - March 2000**



The Council has adopted a policy to fund projects that result in a wide geographic distribution. The chart, *Coastal Management Program Dollars Awarded by County*, shows the distribution of grant monies by county over the life of the program. Grant projects that cross county lines are designated as Upper Coast, Lower Coast, or Coastwide.

**Coastal Management Program
Dollars Awarded By County**



The Council is currently awaiting federal approval of the State's Coastal Nonpoint Source Pollution Control Program.

Small Business and Individual Permitting Assistance

This program provides a single point of contact for individuals and small businesses in the coastal zone, to receive preliminary consistency review and receive assistance with filing applications for permits. The Permitting Assistance Coordinator helps applicants identify the permits necessary to authorize a particular activity, provides guidance on permissible project designs, and helps prepare application forms and supporting material to submit to the appropriate agencies. The Coordinator also investigates applicant complaints and forwards them to the appropriate agency for action.

Coastal Nonpoint Source Pollution Control

In 1990, Congress required states with federally approved coastal management programs to develop and implement programs to control polluted run-off that does not come from easily identifiable, or point, sources in coastal areas. Congress also authorized funding to assist states in developing these programs. The Council approved Texas' program and submitted it to EPA and NOAA in December 1998, and is currently awaiting approval.

The proposed Texas program will coordinate existing state and local efforts in the coastal zone to control nonpoint source pollution. The six source categories addressed by the proposed nonpoint source program are: agriculture; forestry; urban and developing areas; marinas; wetland/riparian areas; and hydromodification projects for channelization, dams, and shoreline erosion. Texas proposes to implement its Coastal Nonpoint Source Pollution Control Program through existing programs that address nonpoint source pollution and water quality throughout the state. For additional information on these existing programs, see Appendix B.

¹ Coastal Zone Management Act of 1972, Sections 306 and 306A - Administration and Resource Management Improvement; Section 309 - Coastal Enhancement; Section 310 - Clean Water Initiative (beginning in 2000); Section 6217 - Coastal Nonpoint Source Pollution Control.

² Tex. Nat. Res. Code Ann., ch. 33, sec. 33.2053(k).

³ Tex. Govt. Code ch. 325, sec. 325.011(9)(B).

⁴ Tex. Govt. Code ch. 2161. Some provisions were formerly required by rider in the General Appropriations Act.

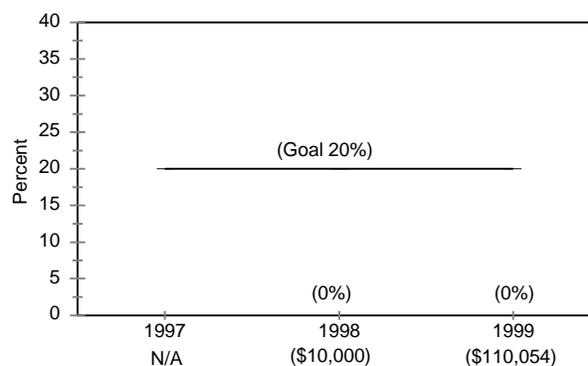
APPENDICES

Appendix A

Historically Underutilized Businesses Statistics

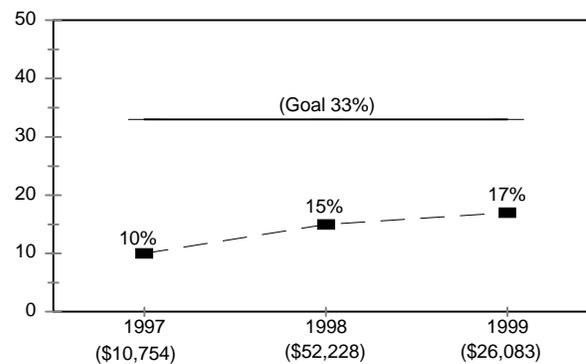
The Legislature has encouraged state agencies to use Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. In accordance with the requirements of the Sunset Act,³ the following material shows trend information for the Council's use of HUBs in purchasing goods and services. The Council maintains and reports this information under guidelines in the General Services Commission's enabling statute.⁴ In the charts, the flat lines represent the goal for each purchasing category, as established by the General Services Commission. The dashed lines represent the Council's actual spending percentages in each purchasing category from 1997, when the Coastal Management Program began, to 1999. Finally, the number in parentheses under each year shows the total amount the Council spent in each purchasing category.

Professional Services

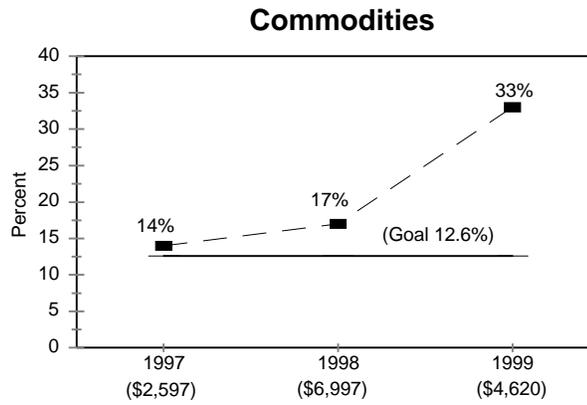


The Council had one contract in fiscal year 1998, and five contracts in fiscal year 1999, for professional services. None of these contracts were HUBs.

Other Services



The Council fell well below the statewide goal for this expenditure category.



The Council has exceeded the goal for this category, significantly exceeding the statewide goal in fiscal year 1999.

Appendix B

Coastal Nonpoint Source Pollution Control Program

The Coastal Coordination Council submitted the proposed Texas Coastal Nonpoint Source Pollution Control Program in December 1998, and is currently awaiting federal approval. The program would bring together existing State programs that address run-off and water quality. These programs are described below.

Texas' Watershed Management Approach

The Texas Natural Resource Conservation Commission (TNRCC) implements existing water quality programs through a watershed-based approach, which serves within the coastal zone as the vehicle for implementing the coastal nonpoint source pollution program. This implementation will include the development of Total Maximum Daily Loads (TMDLs) for the coastal watersheds. TMDLs are detailed technical water quality assessments that determine the maximum amount of pollutants a water body can assimilate and still meet its water quality standards for its designated uses, such as aquatic life, recreation, and water supply, as established by the state. A TMDL is actually a process that will result in a written watershed action plan specifying actions needed to restore and protect water quality for each "impaired" water body.

Nonpoint Source Program

In 1987, Congress passed Section 319 of the Clean Water Act, which established a national program to control nonpoint sources of water pollution. The Section 319 grant program provides for federal assistance to support the implementation of management measures to address run-off pollution. TNRCC administers the program for nonagricultural management projects. The State Soil and Water Conservation Board administers the program for agricultural and forestry projects.

In 1993, the Legislature passed Senate Bill 503, giving agricultural and forestry producers an opportunity to develop a voluntary certified water quality management plan to address water quality concerns resulting from agriculture and forestry. Each plan is site-specific and must comply with state water quality laws through the installation of soil and water conservation land improvement measures. The law designates the State Soil and Water Conservation Board as the implementing agency and requires that the program be implemented in the coastal zone.

Texas Pollutant Discharge Elimination System

In 1987, Congress amended the Clean Water Act to require permits for point source discharges of storm water. On September 14, 1998, EPA delegated the program to Texas, and TNRCC began administering the program.

Federal Clean Water Act Section 401 Water Quality Certification

Section 401 of the Clean Water Act provides for the protection of the State's water resources by ensuring that federal discharge permits are consistent with the Texas Surface Water Quality Standards. Before issuing a federal permit in Texas, the federal permitting agency must receive a certification from TNRCC, or the Railroad Commission for oil and gas production, that the discharge will not violate the state standards. If the State denies certification, the federal permit is also denied. In July 1995, TNRCC revised its rules governing water quality certifications to make them consistent with existing federal rules, and to clarify its ability to pursue enforcement of certification conditions.

Water Pollution Control and Abatement Program under Texas Water Code

Section 26.177 of the Texas Water Code requires cities with populations greater than 10,000 to establish water pollution control and abatement programs under certain conditions. This program is proposed as a stand-alone enforcement mechanism or as a backup enforcement authority for other programs such as the TMDL process and the coastal nonpoint source pollution program.

Appendix C

Staff Review Activities

The Sunset staff engaged in the following activities during the review of the Coastal Coordination Council.

- Worked extensively with staff of the Texas General Land Office - executive management, Council Secretary, and staff from the agency's Resource Management and Legal divisions.
- Attended Council, Executive Committee, and workgroup meetings. Traveled with Council and Executive Committee members to meetings in Port Isabel, Galveston, and Corpus Christi.
- Attended the Texas Annual Coastal Issues Conference to visit with attendees and presenters about the State's role in dealing with the problems facing the Texas coast.
- Met with grant recipients and toured grant projects in Galveston, Port Isabel, and South Padre Island.
- Reviewed reports by the National Oceanic and Atmospheric Administration (NOAA) and U.S. Environmental Protection Agency, and interviewed NOAA staff regarding federal oversight of the Texas Coastal Management Program.
- Met with staff of the State's two national estuary programs, the Coastal Bend Bays and Galveston Bay Estuary programs, and reviewed related documents and reports.
- Conducted interviews and solicited written comments from groups and individuals regarding their ideas and opinions about the Coastal Coordination Council and the State's role in addressing issues of coastal concern.
- Researched how other states administer their coastal management programs.
- Reviewed Texas Department of Transportation, Texas Natural Resource Conservation Commission, and Texas General Land Office documents and reports, state and federal statutes, legislative reports, previous legislation, and literature on coastal issues.

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