

**SUBCHAPTER C: SPECIAL REQUIREMENTS FOR GROUNDWATER
CONSERVATION DISTRICTS**
§§293.17 - 293.23
Effective May 19, 2016

§293.17. Purpose.

The purpose of this subchapter is to provide the processes and requirements related to Texas Water Code (TWC), Chapter 36, Groundwater Conservation Districts. The use of the term "district" in this subchapter means groundwater conservation district (GCD) unless the context clearly indicates otherwise. This subchapter provides:

- (1) procedures for commission certification of landowner petitions for the creation of GCDs filed under TWC, §36.013;
- (2) procedures for the commission, on its own motion, to create GCDs under TWC, §36.0151, in priority groundwater management areas (PGMAs) designated after September 1, 2001;
- (3) procedures for the commission, on its own motion, to create GCDs in PGMAs designated before September 1, 2001; and
- (4) procedures for commission review of GCD management plan noncompliance and petitions for inquiry under TWC, Chapter 36, Subchapter I.

Adopted April 27, 2016

Effective May 19, 2016

§293.18. Creation of a Groundwater Conservation District in a Groundwater Management Area.

(a) Groundwater conservation district creation landowner submittal. An original and one copy of the complete groundwater conservation district (GCD) creation submittal shall be filed with the executive director on behalf of a group of landowners as provided in subsection (b) of this section and shall contain a petition as described in subsection (b) of this section, supporting information as described in subsection (c) of this section, the name and address of a representative designated by the group of landowners for contact purposes, and a \$700 non-refundable submittal fee at the time the petition is filed.

(b) Groundwater conservation district petition. A complete district creation petition must be signed by the majority of the landowners in the proposed district

or, if there are more than 50 landowners, at least 50 of those landowners. A complete petition must include the following:

- (1) the name of the proposed GCD;
- (2) the area and boundaries of the proposed district, including a map generally outlining the boundaries of the proposed district;
- (3) the purpose or purposes of the proposed district;
- (4) if any proposed projects are to be funded by the issuance of bonds or notes, a statement of the general nature of the projects proposed to be undertaken by the proposed district, the necessity and feasibility of the work, and the estimated cost of those projects according to the petitioners;
- (5) the names of at least five individuals qualified to serve as temporary directors; and
- (6) financial information, including the projected maintenance tax or production fee rate and a proposed budget of revenues and expenses for the proposed district.

(c) Supporting information. As part of the GCD creation submittal, the petitioners must include the following information.

(1) The petitioners must submit the following information about the area and boundaries of the proposed district:

(A) a metes and bounds description of the proposed boundaries of the proposed district if those boundaries differ from a political subdivision boundary which existed on the date the petition was submitted;

(B) a vicinity map outlining the boundaries of the proposed district which is 22 inches by 36 inches in size at a minimum, or in a digital data electronic format showing as appropriate the location of municipalities, highways, roads, surface water features, and other water districts, together with the areal extent of groundwater aquifers, and showing the location of recharge (i.e., outcrops of aquifer units, karst features, etc.) and Texas Water Development Board (TWDB) located discharge (i.e., seeps, springs, etc.) features identified with state well number, the downdip limits of usable quality groundwater, and any other information the petitioners believe is pertinent to the creation of the proposed district; and

(C) an evaluation and description of how the boundaries of the proposed district will provide for effective management of the groundwater resources within the proposed district and in the GMA.

(2) If the petitioners propose projects that are to be funded by the issuance of bonds or notes, the petitioners must submit an evaluation of the general nature of the proposed projects to be undertaken by the district, the necessity and feasibility of the work, and the estimated cost of those projects according to the petitioners.

(3) The petitioners must submit affidavits from the individuals named in the petition under subsection (b)(5) of this section, establishing that these individuals are qualified to serve as temporary directors according to Texas Water Code (TWC), §§36.051(b), 36.058, and 36.059(b).

(4) The petitioners must submit financial information that includes the projected maintenance tax rate or production fee rate and a proposed budget of revenues and expenses for the proposed district, and a listing of current tax assessments within the boundaries of the proposed district.

(A) If the petitioners propose to finance the district through maintenance taxes, the petitioners must provide a certification by the central appraisal district(s) within the proposed district which indicates the total tax valuation of all land within the proposed district, as reflected on the current county tax rolls. The petitioners must evaluate the projected maintenance tax rate for the proposed district with the total tax valuation and describe how this revenue source will support the proposed budget of expenses.

(B) If the petitioners propose to finance the district through well production fees, the petitioners must provide the estimated non-exempt groundwater usage, by type, for the proposed district. The petitioners must evaluate the projected production fee rate for the proposed district with the total non-exempt groundwater usage, by type, and describe how this revenue source will support the proposed budget of expenses.

(5) The petitioners must provide a certification by the central appraisal district(s) within the proposed district which indicates that the petitioners are landowners within the proposed district on the date the petition is submitted.

(A) If the tax rolls do not show the petitioners to be the majority of the landowners within the proposed district, then the petitioners shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the county tax rolls to establish that the petitioners comprise the majority

of the landowners or that at least 50 of the petitioners are landowners in the proposed district.

(B) The executive director may request any additional information to accurately show the ownership of the land to be included in the proposed district.

(6) The petitioners must provide one contact person for all correspondence from the executive director regarding the petition.

(7) The petitioners must provide a signed statement by the appropriate county clerk or city secretary that a copy of the petition for creation of the proposed district was received by each county in whole or in part within the proposed district and by each city in whose corporate limits any part of the proposed district is located.

(8) Concurrent with filing the petition and supporting information with the executive director, the petitioners shall make a copy or copies of the petition and supporting information available for public inspection during regular business hours at a centralized location or locations in each county in whole or in part within the proposed district. The petitioners must provide the address and contact information for each location where the petition and supporting information have been made available for public inspection.

(9) The executive director may request any other related information as needed to process the district creation petition.

(d) Petition review. The executive director's review of a petition for the creation of a GCD shall be governed by this subsection.

(1) Within 20 working days of receipt, the executive director shall assign the petition a number and determine if the submittal complies with the requirements in subsection (a) of this section.

(A) If a submittal is not complete, the executive director shall notify the petition contact person of the deficiencies of the submittal via certified mail postmarked no later than 20 working days after the submittal was received.

(B) If the petitioners submit additional information within 20 working days of the date of the notice of deficiencies, the executive director shall evaluate the information within 15 working days and, where applicable, shall determine if the submittal complies with subsection (a) of this section.

(C) If the petitioners do not submit the required information within 20 working days of the date of the notice of deficiencies, the executive director shall return the incomplete submittal to the petitioners, and the submittal fee is forfeited.

(2) If a petition proposes the creation of a GCD in an area, in whole or in part, that has not been designated as a GMA, the executive director shall provide notice to the petitioners and to the executive administrator of the TWDB. The commission may not certify the petition until the TWDB has adopted a rule designating a GMA that is coterminous with or includes the boundaries of the proposed district.

(e) Notice and public meeting.

(1) If the executive director determines that the submittal is complete, the executive director shall prepare a public notice for publishing or mailing. The public notice shall:

(A) state that the commission has received a complete submittal for the proposed creation of a GCD;

(B) provide notice of the date, time, and location of a public meeting to receive comments on the petition to create the district;

(C) provide notice of availability of the petition and supporting information as established by the petitioners under subsection (c)(8) of this section and at any other location deemed appropriate by the executive director; and

(D) provide a general map of the proposed district if the area is not a recognizable political subdivision boundary.

(2) The executive director shall notify the chief clerk that the submittal is complete and shall forward the draft public notice and a mailing list of water stakeholders to the chief clerk. The water stakeholders shall include the governing body of each county, regional water planning group, adjacent GCD, municipality, river authority, water district, or other entity that supplies public drinking water, including each holder of a certificate of convenience and necessity issued by the commission and each irrigation district located either in whole or in part in the proposed district.

(3) The chief clerk shall mail the notice to the water stakeholders indicating that the petition for the creation of a GCD has been received.

(4) The chief clerk shall mail the notice to the petitioners with instructions for publishing the notice.

(5) The petitioners shall publish notice once a week for two consecutive weeks in one or more newspapers of general circulation in the area of the proposed district. The last publication shall be no later than 30 days before the public meeting. The petitioners must provide proof of publication by publishers affidavit to the chief clerk no later than one week prior to the public meeting.

(6) The petitioners shall post the notice on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is located no later than ten days before the public meeting. The petitioners must provide proof of the posting to the chief clerk no later than one week prior to the public meeting.

(7) The commission or the executive director shall conduct the public meeting on the petition in a central location within the area of the proposed district. The public meeting shall be held no later than 60 days after the date the chief clerk mailed notice to the petitioners.

(f) Executive director actions. Following the public meeting, the executive director shall file recommendations regarding certification of the petition and the appointment of temporary directors with the chief clerk. The executive director shall summarize the public meeting comments and make a recommendation to the commission on whether the petition is administratively complete and should be certified.

(g) Commission actions. Not later than 90 days after the date of the public meeting, the commission shall certify the petition as administratively complete. A petition is administratively complete if it complies with the requirements of TWC, §36.013(b) and (c), and subsection (a) of this section.

(1) If the commission certifies the petition as administratively complete, the commission shall issue an order stating that the petition is administratively complete, creating the district, and appointing the temporary directors named in the petition.

(2) The commission shall appoint temporary directors according to §§293.31 - 293.35 of this title (relating to Appointment of Directors; Qualifications of Directors; Commission Appointment of Directors to Fill Vacancies; Form of Affidavit for Appointment as Director; and Reinstatement of a Board Member).

(A) If a temporary director appointed by the commission fails to qualify, or if a vacancy occurs in the office of temporary director, the commission shall appoint an individual to fill the vacancy.

(B) Temporary directors appointed under this paragraph serve until the initial directors are elected and have qualified for office or until the voters fail to approve creation of the district.

(3) The commission may not certify a petition if the commission finds that:

(A) the proposed district cannot be adequately funded to finance required or authorized groundwater management planning, regulatory, and district-operation functions under TWC, Chapter 36 based on the financial information provided by the petitioners; or

(B) the boundaries of the proposed district do not provide for the effective management of the groundwater resources.

(4) The commission may alter the boundaries if such boundaries would facilitate district creation and confirmation and may also alter boundaries to provide for more effective management of groundwater resources. The commission may give preference to boundaries that are coterminous with those of a GMA and may also consider boundaries along existing political subdivision boundaries.

(5) If the commission does not certify the petition, the executive director shall provide to the petitioners in writing the reasons for not certifying the petition. The petitioners may resubmit the petition, without paying an additional fee, if the petition is resubmitted within 90 days after the date the executive director provides the notice. The resubmitted petition will be treated as a new GCD creation submittal.

Adopted August 7, 2002

Effective August 29, 2002

§293.19. Commission-Initiated Creation of a Groundwater Conservation District in a Priority Groundwater Management Area.

(a) In priority groundwater management areas (PGMAs) designated after September 1, 2001 under §294.42 of this title (relating to Commission Action Concerning PGMA Designation), where no groundwater conservation district (GCD) has been created, the executive director shall, after identifying the applicable areas under §294.43(d) and (e) of this title (relating to Actions Required After PGMA Designation), recommend district creation for commission action.

(1) The recommendation shall be based on and consistent with the commission's designation order under §294.42 of this title. The executive director's recommendation, in the form of a proposed order, must provide for the purpose, boundary description, minimum financing, and the number of temporary directors for each county for the district.

(2) The executive director's proposed order shall be filed with the chief clerk for commission consideration. The executive director shall prepare a notice and include a mailing list of:

(A) water stakeholders that include the governing body of each county, regional water planning group, adjacent GCD, municipality, river authority, water district, or other entity that supplies public drinking water, including each holder of a certificate of convenience and necessity issued by the commission and each irrigation district located either in whole or in part in the proposed district; and

(B) any other persons identified in the PGMA designation hearing.

(3) The chief clerk shall give notice of the executive director's recommendation and proposed order and the date of the agenda when the commission will act on the district creation to the water stakeholders and other persons identified in the PGMA designation hearing. The commission shall not hold an evidentiary hearing on the district creation.

(b) In PGMA's designated before September 1, 2001, the executive director, after identifying the areas in the PGMA that have not created a district, shall petition the commission for the creation of a district by preparing a report and filing the report with the chief clerk.

(1) The report shall identify the areas not included in a district and evaluate and recommend whether one or more districts should be created in the identified areas, whether the identified areas should be added to an existing district, or whether a combination of these actions should be taken.

(2) The report shall include the following:

(A) the purpose or purposes of the recommended district creation action or actions;

(B) the name of the recommended district or districts or the name of the existing district if the recommendation is to add the identified areas to an existing district;

(C) the area and boundaries of the recommended district or districts or the recommended area to be added to an existing district, including a map generally outlining the boundaries;

(D) the number of temporary directors for each county in the recommended district or districts; and

(E) the feasibility and practicability of the recommended district creation action.

(3) The executive director shall prepare a mailing list of water stakeholders including the governing body of each county, regional water planning group, adjacent GCD, municipality, river authority, water district, or other entity that supplies public drinking water, including each holder of a certificate of convenience and necessity issued by the commission and each irrigation district located either in whole or in part in the identified areas.

(4) The executive director shall prepare a public notice for publishing and mailing. The public notice shall:

(A) state that the commission has been petitioned by the executive director to create a GCD;

(B) provide notice of the date, time, and location of a contested case hearing to receive evidence on the petition;

(C) provide notice of the availability of the petition and supporting information; and

(D) provide a general map of the proposed district if the area is not a recognizable political subdivision boundary.

(5) On receipt of the report and notice, the chief clerk shall:

(A) mail notice of the petition to the water stakeholders identified in the executive director's mailing list; and

(B) publish notice in one or more newspapers of general circulation in the area of the proposed district.

(6) The commission, or the executive director on behalf of the commission, shall refer the petition to SOAH for a contested case hearing on the executive director's report and recommendation.

(7) The hearing shall be limited to consideration of the executive director's report and recommendation. The administrative law judge may also consider other district creation options evaluated in the executive director's report. To determine the feasibility and practicability of the recommended district creation action, the administrative law judge shall consider:

(A) whether the recommended district creation action can effectively manage groundwater resources under the authorities provided in Texas Water Code (TWC), Chapter 36;

(B) whether the boundaries of the recommended district creation action provide for the effective management of groundwater resources; and

(C) whether the recommended district creation action can be adequately funded to finance required or authorized groundwater management planning, regulatory, and district operation functions under TWC, Chapter 36.

(8) The administrative law judge shall at the conclusion of the hearing, issue a proposal for decision stating findings, conclusions, and recommendations. The administrative law judge shall file these findings and conclusions with the chief clerk with a request for the petition be set for commission consideration.

(c) If the commission finds the creation of the district or districts is feasible and practicable, it shall issue an order creating the district or districts. The order shall include the purpose of the district, boundary description, minimum maintenance tax or production fee necessary to support the district, and the number of temporary directors for each county in the district according to TWC, §36.0161. The commission order shall direct the commissioners court of the county or counties that are within the district to appoint temporary directors. The commission order shall direct the temporary directors to call and schedule an election to authorize the district to assess taxes and to elect permanent directors.

(1) The commissioners court of the county or counties within the district shall, within 90 days after receiving notification from the commission, appoint temporary directors for the district and notify the commission of the appointments. The commissioners court shall not make any appointments after the expiration of the 90-day period. If fewer temporary directors have been appointed at the expiration of the period than required, the commission shall appoint the additional directors.

(2) If the district contains two or more counties, the commission shall apportion the number of temporary directors to each county based on each county's proportionate amount, to the nearest whole number, of the total estimated

groundwater use within the district. The total estimated groundwater usage within the district for each county shall be based on information and data contained in the most current version of the Texas State Water Plan as adopted by the Texas Water Development Board and other information developed under §294.41 of this title (relating to Priority Groundwater Management Area Identification, Study, and Executive Director's Report Concerning Designation).

(3) If a temporary director appointed by the commissioners court fails to qualify according to TWC, §§36.051(b), 36.058, and 36.059(b), or if a vacancy occurs in the office of temporary director, the commissioners court shall appoint an individual to fill the vacancy.

(4) Temporary directors appointed under this subsection shall serve until the initial directors are elected and have qualified for office.

(d) If the commission finds the areas identified in the report provided by subsection (b)(1) of this section should be added to an existing district, the commission shall issue an order recommending the addition of the identified areas to the existing district. The commission and the executive director shall follow the procedures provided under §294.44 of this title (relating to Adding a PGMA to an Existing Groundwater Conservation District).

Adopted July 25, 2012

Effective August 16, 2012

§293.20. Records and Reporting.

(a) Each groundwater conservation district created according to Texas Water Code (TWC), Chapter 36 shall comply with the statute. Districts created by special acts of the Texas Legislature must comply with all statutory requirements contained in the special act and with the provisions of TWC, Chapter 36 that do not conflict with the special act.

(b) Districts are required to submit to the executive director the following documents:

(1) a certified copy of the legislative act creating the district within 60 days after the district is created;

(2) a certified copy of the order of the district's board of directors canvassing the confirmation election and declaring the confirmation election results according to TWC, §36.017(e);

(3) a certified copy of the order of the district's board of directors changing the boundaries of the district, a metes and bounds description of the

boundary change, and a detailed map showing the boundary change within 60 days after the date of any boundary change; and

(4) a written notification to the executive director of the name, mailing address, and date of expiration of term of office of any elected or appointed director within 30 days after the date of the election or appointment according to TWC, §36.054(e).

(c) A district is required under TWC, §36.1071 to adopt a management plan and adopt rules that are necessary to implement the management plan. In accordance with TWC, §36.1072, the management plan must be adopted by the district and submitted to the executive administrator of the Texas Water Development Board within three years of either the effective date of creation of the district or the date the district was confirmed by election if an election was required. The management plan is subject to approval by the executive administrator of the Texas Water Development Board or the Texas Water Development Board upon appeal. After approval, each district must readopt and resubmit the management plan to the executive administrator of the Texas Water Development Board at least once every five years.

(1) Within 60 days of approval of its management plan, a district must send a copy of its approved management plan to the regional water planning group or groups for the planning region or regions in which the district is located. The district shall maintain records of the correspondence.

(2) Within 60 days of approval of its management plan, a district must forward a copy of its approved management plan to the other districts wholly or partially located in the same groundwater management area or areas. The district shall maintain records of the correspondence.

(d) Each district shall provide copies of district documentation or records upon request of the executive director to determine compliance with statutory provisions related to noncompliance review under TWC, Chapter 36, Subchapter I and §293.22 of this title (relating to Noncompliance Review and Commission Action), and TWC, §36.3011, and §293.23 of this title (relating to Petition Requesting Commission Inquiry).

(e) Each district shall provide copies of district documentation or records upon request of the executive director to determine compliance with statutory provisions.

§293.21. Expansion of an Existing Groundwater Conservation District's Management Authority.

(a) Any groundwater conservation district created by the commission under Texas Water Code (TWC), Chapter 36, to manage a specific groundwater resource may expand its authority to manage other water-bearing formations which are within its territorial boundaries by filing a petition with the commission to amend the order creating the district.

(b) The petition to amend the order creating the district shall describe which water-bearing formations are being proposed for management, specifically addressing the following criteria:

(1) identify the new water-bearing formation which is the subject of the petition and its areal extent within the district, including a map if different from the boundaries of the district;

(2) evaluate and describe how expanding the district's authority to manage the other water-bearing formations will provide for the effective management of groundwater resources in the district;

(3) identify the nature of projects and management issues to be undertaken to address concerns of the water-bearing formation, including necessity and feasibility of the work.

(c) If a confirmation election has been held in the territorial boundaries of the district, no further confirmation election is necessary to add these water-bearing formations to the district.

(d) The notice and public meeting provisions of §293.18(e) of this title (relating to Notice and Public Meeting) shall be followed to add a water-bearing formation to an existing district.

(e) The executive director shall summarize the public meeting comments and file recommendations regarding the petition with the chief clerk.

(f) Not later than 90 days after the date of the public meeting, the commission shall issue an order either authorizing the district to manage the other water-bearing formations or denying the petition if the commission finds that authorizing the district to manage the other water-bearing formations would not provide for the effective management of the groundwater resources. The executive director shall provide a copy of the order to the petitioners.

§293.22. Noncompliance Review and Commission Action.

(a) Purpose. The purpose of this section is to set out procedures for commission review of groundwater conservation district (GCD) noncompliance with requirements of Texas Water Code (TWC), Chapter 36. This section provides a process for a GCD to achieve compliance, enforcement procedures if compliance is not achieved, and commission enforcement actions. Management plan noncompliance review and commission action are required under TWC as the result of a GCD's failure to:

(1) adopt a management plan in accordance with TWC, §36.1071 and §36.1072 and submit the plan for review and approval to the executive administrator of the Texas Water Development Board within three years of either the effective date of creation of the district or the date the district was confirmed by election if an election was required;

(2) receive within 60 days of submittal, written approval from the executive administrator of the Texas Water Development Board for a management plan, an amended management plan, or a readopted management plan as provided by TWC, §36.1072 and §36.1073;

(3) readopt and resubmit the management plan for review and approval to the executive administrator of the Texas Water Development Board at least once every five years after the date of the most recent management plan approval;

(4) be actively engaged and operational in achieving the objectives of its groundwater management plan based on the State Auditor's Office review of the district's performance as provided by TWC, §36.302; or

(5) adopt, implement, or enforce district management plans and rules to protect groundwater as evidenced in a report prepared by a commission-appointed review panel as provided by TWC, §36.3011 and §293.23 of this title (relating to Petition Requesting Commission Inquiry).

(b) Noncompliance review. The executive director shall investigate the facts and circumstances of any violations of this chapter or order of the commission under this chapter or provisions of TWC, §36.301, 36.3011, and 36.302.

(1) The executive director shall notify the district and may attempt to resolve any noncompliance set out in subsection (a) of this section with the district.

(2) After review of the facts and identification of noncompliance issues, the executive director shall submit a compliance agreement to the district. The compliance agreement must clearly identify the noncompliance issue(s) and provide district actions and a schedule for the district to achieve compliance.

(3) The district shall be provided a specified time frame not to exceed 60 days after the date of receipt of the compliance agreement, to consider and agree to the terms of the compliance agreement and schedule. If the district wants to amend the compliance agreement schedule, it must contact the executive director within 30 days of receipt of the compliance agreement so that the compliance agreement can be considered and signed by the district and its board of directors within the 60-day time frame.

(4) If the district agrees with and signs the compliance agreement, the executive director shall monitor the district's implementation of the agreement terms. If the district accomplishes compliance within the agreed schedule, the executive director shall notify the district that it has achieved compliance and is no longer under review by the commission.

(c) Executive director recommendations filed with commission. If unable to resolve the violation under subsection (b) of this section, or if the facts of the noncompliance issue warrant, the executive director shall follow the procedures for commission enforcement actions set out in Chapter 70, Subchapter C of this title (relating to Enforcement Referrals to SOAH). The executive director shall prepare and file a written report with the commission and the district and include any actions the executive director believes the commission should take under TWC, §36.303 and subsection (e) of this section.

(d) Notice and hearing. The commission shall provide notice in accordance with §70.104 of this title (relating to Notice of Executive Director's Preliminary Report). If the executive director's report recommends dissolution of a district or of a board of directors or referral of the matter to the Office of the Attorney General requesting the placement of a district into receivership, the commission shall hold an enforcement hearing.

(1) The commission shall publish notice once each week for two consecutive weeks before the day of the hearing to receive evidence on the dissolution of a district or of a board of directors or referral of the matter to the Office of the Attorney General requesting the placement of a district into receivership in a newspaper of general circulation in the area in which the district is located with the first publication being 30 days before the day of hearing.

(2) The commission shall give notice of the hearing by first-class mail addressed to the directors of the district according to the last record on file with the executive director.

(e) Commission enforcement actions. In accordance with TWC, §§36.301, 36.3011, and 36.302, the commission, after notice and hearing, shall take all actions it considers appropriate, including:

(1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions;

(2) dissolving the board in accordance with TWC, §36.305 and §36.307 and calling an election for the purpose of electing a new board;

(3) requesting the attorney general to bring suit for the appointment of a receiver to collect the assets and carry on the business of the GCD in accordance with TWC, §36.3035;

(4) dissolving the district in accordance with TWC, §§36.304, 36.305, and 36.308; or

(5) recommending to the legislature in the commission's report concerning priority groundwater management areas required by TWC, §35.018, actions the commission deems necessary to accomplish comprehensive management in the district.

(f) District dissolution. TWC, §§36.304 - 36.310 authorize the commission to dissolve any district as defined in TWC, §36.001(1), that has no outstanding bonded indebtedness.

(1) A district that is composed of territory entirely within one county may be dissolved even if it has outstanding indebtedness that matures after the year in which the district is dissolved. If a district is in more than one county, and has outstanding bond indebtedness, it may not be dissolved.

(2) Upon the dissolution of a district by the commission, all assets of the district shall be sold at public auction and the proceeds given to the county if it is a single county district. If it is a multi-county district, the proceeds shall be divided with the counties in proportion to the surface land area in each county served by the district.

(3) The commission shall file a certified copy of an order for the dissolution of a GCD in the deed records of the county or counties in which the district is located. If the district was created by a special Act of the legislature, the

commission shall file a certified copy of the order of dissolution with the Secretary of State.

(g) Dissolution of board. If the commission enters an order to dissolve the board of a GCD, the commission shall notify the county commissioners court of each county which contains territory in the district. The commission shall appoint five temporary directors under TWC, §36.016, that shall serve until an election for a new board can be held under TWC, §36.017. However, district confirmation shall not be required for continued existence of the district and shall not be an issue in the election.

(h) Receivership. If the commission enters an order to request the attorney general to bring suit for the appointment of a receiver to collect the assets and carry on the business of a district, the executive director shall forward the order and the request to the attorney general and provide any relevant commission correspondence. The executive director shall assist the attorney general as requested and shall continue to track the status of attorney general actions.

(i) Appeals. Appeals from any commission order issued under this section shall be filed and heard in the district court of any of the counties in which the district is located

Adopted April 27, 2016

Effective May 19, 2016

§293.23. Petition Requesting Commission Inquiry.

(a) Purpose and applicability. This section provides procedures for commission review of a petition filed by an affected person requesting an inquiry into a groundwater conservation district's (GCD) activities regarding management planning or rules; commission appointment of the review panel; review panel actions; and executive director actions under Texas Water Code (TWC), §36.3011. An affected person means, with respect to a management area:

- (1) an owner of land in the management area;
- (2) a GCD or subsidence district in or adjacent to the management area;
- (3) a regional water planning group with a water management strategy in the management area;
- (4) a person who holds or is applying for a permit from a district in the management area; or

(5) a person with a legally defined interest in groundwater in the management area.

(b) Petition requesting commission inquiry. An affected person may file a petition with the commission to request an inquiry for any of the reasons in paragraphs (1) - (9) of this subsection:

(1) a district fails to submit its management plan to the executive administrator of the Texas Water Development Board;

(2) a district fails to participate in the joint planning process under TWC, §36.108;

(3) a district fails to adopt rules;

(4) a district fails to adopt the applicable desired future conditions adopted by the management area at a joint meeting;

(5) a district fails to update its management plan before the second anniversary of the adoption of desired future conditions by the management area;

(6) a district fails to update its rules to implement the applicable desired future conditions before the first anniversary of the date the district updated its management plan with the adopted desired future conditions;

(7) the rules adopted by a district are not designed to achieve the adopted desired future conditions;

(8) the groundwater in the management area is not adequately protected by the rules adopted by a district; or

(9) the groundwater in the management area is not adequately protected due to the failure of a district to enforce substantial compliance with its rules.

(c) The petition must include supporting documentation for each of the individual reasons the affected person identifies in subsection (b) of this section demonstrating that a commission inquiry is necessary.

(d) The petition must include a certified statement from the affected person that describes why the petitioner believes that a commission inquiry is necessary.

(e) The petitioner shall provide a copy of the filed petition to all GCDs within and adjacent to the GMA within five days of the date the petition was filed. Within

21 days of filing the petition, the petitioner shall file with the chief clerk of the commission an affidavit or other evidence, such as a return receipt for certified mail service, that a copy of the petition was mailed to each GCD within and adjacent to the petitioner's GMA.

(f) Any GCD that is within and adjacent to the GMA that is the subject matter of the petition may file a response to the validity of the specific claims raised in the petition. The responding entity shall file its response with the chief clerk of the commission within 35 days of the date that the petition is filed, and shall also on the same day serve the petitioner, the executive director, the public interest counsel, and any other GCD in and adjacent to the GMA. The chief clerk shall accept a response that is filed after the deadline but shall not process the late documents. The chief clerk shall place the late documents in the file for the petition.

(g) Commission review of petition. The commission shall review the petition and any timely filed responses, no sooner than 35 days, but not later than 90 days after the date the petition was filed. The commission may dismiss the petition if it finds that the evidence required by subsections (c) and (d) of this section is not sufficient to show that the items contained in subsection (b)(1) - (9) of this section exist. If the commission does not dismiss the petition, it shall appoint a review panel to prepare a written report.

(1) The review panel shall consist of five members.

(A) The commission shall appoint one of the members to serve as the chairman of the review panel. The chairman shall schedule and preside over the proceedings and meetings of the panel.

(B) A director or general manager of a district that is not an affected person as defined by subsection (a) of this section and is not the subject of the petition may be appointed to the review panel.

(C) The commission may not appoint more than two members of the review panel from any one district.

(2) The commission shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the review panel.

(3) The commission may direct the review panel to conduct public hearings at a location in the groundwater management area to take evidence on the petition.

(4) In accordance with TWC, §36.3011, the review panel shall review the petition and any evidence relevant to the petition and consider and adopt a report to the commission.

(h) Review panel report. The review panel's report must be submitted to the executive director no later than 120 days after the review panel was appointed by the commission. The review panel's report shall include:

(1) if a public hearing is conducted, a summary of evidence taken on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take under TWC, §36.303 and §293.22(e) of this title (relating to Noncompliance Review and Commission Action) and the reasons it finds those commission actions appropriate; and

(3) any other information the panel considers appropriate for commission consideration.

(i) Commission action on review panel report. The executive director or the commission shall take action to implement any or all of the review panel's recommendations if a cause contained in subsection (b)(1) - (9) of this section applies. The executive director shall, no later than 45 days after the date the review panel report was received, recommend to the commission or initiate any action considered necessary under TWC, §36.303 and §293.22(b) - (h) of this title.

Adopted April 27, 2016

Effective May 19, 2016