

SUBCHAPTER D: APPOINTMENT OF DIRECTORS
§§293.31 - 293.35
Effective April 19, 2013

§293.31. Appointment of Directors.

At the time the commission issues an order granting the petition for creation of a district, and at other relevant times as may be provided by law, the commission shall appoint the appropriate number of directors who shall serve until their successors are elected, or appointed, and qualified.

Effective September 5, 1986

§293.32. Qualifications of Directors.

(a) Unless otherwise provided, an applicant for appointment as a director must be at least 18 years old, a resident citizen of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

(1) A director of a fresh water supply district created under Texas Water Code (TWC), Chapter 53:

(A) must be:

- (i) a resident of this state;
- (ii) an owner of taxable property in the district; and
- (iii) at least 18 years of age; or

(B) must be a registered voter of the district.

(2) A director of a regional district created for the purposes defined under TWC, §59.004 must be at least 18 years old and a resident of this state, but need not be a landowner or qualified voter within the district.

(3) A director of a special utility district created for the purposes defined under TWC, §65.012, must be a resident citizen of this state and either own land subject to taxation in the district, or be a user of the facilities of the district or be a qualified voter in the district.

(4) A director of a stormwater control district created for the purposes defined under TWC, §66.012, must reside within the boundaries of the proposed district but need not be a landowner or qualified voter within the district.

(5) A director of a groundwater conservation district must be a registered voter in the precinct that the person represents pursuant to TWC, §36.059(b).

(6) A person cannot be appointed to fill a vacancy on the board of a municipal utility district, under TWC, Chapter 54, if the person:

(A) resigned from that board:

(i) within two years preceding the vacancy date; or

(ii) on or after the vacancy date but before the vacancy is filled; or

(B) was defeated in a directors election held by that district in the two years preceding the vacancy date.

(7) A director shall not be a developer of property in the district, or be related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or other person providing professional services to the district.

(8) A director shall not be an employee of any developer of property in the district, or any director, manager, engineer, attorney, or other person providing professional services to the district, or a developer of property in the district in connection with the district or property located in the district.

(b) As used in this section, a developer of property in the district means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. (See TWC, §49.052(d).)

Adopted March 27, 2013

Effective April 19, 2013

§293.33. Commission Appointment of Directors to Fill Vacancies.

(a) The commission may appoint a director or directors to fill a vacancy or vacancies on the board of:

(1) a district that is subject to commission bond review under Texas Water Code, §49.181 if the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after it occurs, as provided by Texas Water Code, §49.105(c); and

(2) other districts where specifically provided by law.

(b) Requests for Appointment due to less than a quorum of board members shall be accompanied by the following:

(1) petition signed by a landowner within the district requesting appointment of a director or directors to fill one or more vacancies on the board;

(2) evidence of each former director's failure or refusal to qualify or serve for each vacancy on the board to be filled;

(3) requests for consideration of appointment as director in the form shown in §293.34 of this title (relating to Form of Affidavit for Appointment as Director) for those persons desiring consideration as director for vacant positions;

(4) certified mail receipt verifying that notice of the application for appointment of directors was sent to the district's official address and each director as shown on the district's latest registration form;

(5) an application fee of \$100; and

(6) any other information as the executive director may require.

(c) The executive director or a landowner within the district may request appointment of a director to fill a vacancy that has not been filled by the remaining board members after the 90th day a position becomes vacant. Any request submitted by a landowner under this subsection shall include:

(1) evidence that the position has been vacant for more than 90 days;

(2) nomination of a candidate who meets the director qualifications as evidenced by completion of the form shown in §293.34 of this title (relating to Form of Affidavit for Appointment as Director); and

(2) State whether you are a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or other person providing professional services to the district.

(3) State your present occupation and employment. Is this your main source of income? If not, please explain.

(4) State whether you plan to live in the district. If you do not plan to live in the district, what are your plans for the use and disposition of the land? Not applicable if applying for director of a Regional District for Water, Wastewater, and Drainage.

(5) Do you, or your employer, have any business or other connections with any developer of the proposed district, the attorney representing the proposed district, or the consulting engineer for the proposed district or developer? If so, please explain.

(6) Are you aware that the district is a public entity and that by law notice of its meetings must be given and the meeting must be open to the public and its records shall be available for public inspection at all reasonable times?

(7) Are you aware that the district is subject to the continuing supervision of the commission and will you fully cooperate with the commission?

(8) Do you affirm that you will faithfully execute the duties of the office of director of the district of the State of Texas, and will to the best of your ability preserve, protect, and defend the constitution and laws of the United States and of this state; do you affirm that you have not directly nor indirectly paid, offered or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment as a reward to secure your appointment?

Before me, the undersigned authority, on this day personally appeared _____ who desires to be appointed as director of _____ to serve until his successor is elected or appointed, and who being by me duly sworn on his oath deposed and said that every response and statement set forth herein is true and correct.

Signature

Sworn to and subscribed before me this _____ day of _____, 19 _____.

Notary Public in and for
County, Texas

Adopted September 30, 1996

Effective October 22, 1996

§293.35. Reinstatement of a Board Member.

(a) If a board by unanimous vote of its remaining members has removed a board member pursuant to Water Code, §49.052(g), that board member may submit a written appeal to the executive director within 30 days after receiving written notice of the board action. The commission may reinstate a removed director if the commission finds that the removal was unwarranted under the circumstances, including the reasons for absences, the time and place of the meetings missed, the business conducted at the meetings missed, and any other facts or circumstances the commission may deem relevant.

(b) A removed board member desiring to appeal the decision of the district's board of directors shall submit an application to the executive director. The application shall consist of the following:

(1) a written request by the removed board member requesting commission review;

(2) an application fee of \$100;

(3) copies of the district's board meeting minutes for the 12 months prior to the date of the board member's removal;

(4) a statement as to why the removed board member believes that his/her removal was unwarranted, along with supporting documentation to support the statement, including the reasons for absences, the time and place of the meetings missed, the business conducted at the meetings missed, and any other relevant facts or circumstances; and

(5) such other information which the commission considers material to a determination of whether the removed board member should be reinstated as a director of the district or the district's actions in removing the board member were warranted and reasonable.

(c) The executive director will examine the application and the facts and circumstances contained therein and will prepare a written report which will be submitted to the commission. A copy of the report will be mailed to the removed board

member, the directors of the district, the district's official address and any other interested parties, including the district's attorney, if known.

(d) After consideration, the commission will determine whether the removed board member will or will not be reinstated. The commission will enter the appropriate order, either reinstating the applicant to the district's board of directors or confirming the board's decision to remove the board member.

Adopted September 30, 1996

Effective October 22, 1996