

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Proposed Rulemaking

AGENDA REQUESTED: December 17, 2025

DATE OF REQUEST: November 25, 2025

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Corey Bowling, Rule/Agenda Coordinator, (512) 239-6089

CAPTION: Docket No. 2024-1823-RUL. Consideration for publication of, and hearing on, proposed 30 Texas Administrative Code (TAC) Chapter 293, Sections 293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, 293.91, of 30 TAC Chapter 293, Water Districts.

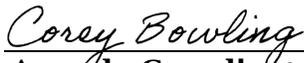
The rulemaking would implement the following bills from the 88th Texas Legislature (2023): House Bill (HB) 2815, HB 3437, HB 3507, Senate Bill (SB) 1397, and SB 938. The rulemaking would also implement HB 1410 from the 87th Texas Legislature (2021) (Jacob Houston, Kayla Murray; Rule Project No. 2025-009-293-OW)



Director



Division Deputy Director



Agenda Coordinator

Copy to CCC Secretary? NO YES

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** November 25, 2025

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: *cmf* Cari-Michel La Caille, Director
Office of Water

Docket No.: 2024-1823-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 293, Water Districts
88th Legislative Session Districts Implementation Rule
Rule Project No. 2025-009-293-OW

Background and reason(s) for the rulemaking:

The proposed rulemaking would amend 30 Texas Administrative Code (TAC) Chapter 293 to implement the following bills from the 88th Texas Legislature (2023): House Bill (HB) 2815, authored by Jacey Jetton and coauthored by Ellen Troxclair; HB 3437, authored by Justin Holland; HB 3507, authored by Justin Holland; Senate Bill (SB) 1397, authored by Charles Schwertner, Nathan Johnson, Angela Paxton, Charles Perry, and Drew Springer; and SB 938, authored by César Blanco. The rulemaking would also implement HB 1410 from the 87th Texas Legislature (2021), authored by Jim Murphy and Celia Israel.

This rulemaking reflects 30 TAC Chapter 293 changes to incorporate the following:

- Local Government Code (LGC), §375.022, enacted in HB 2815, allows a Municipal Management District (MMD) to request that a succeeding board of directors be elected under LGC, §375.0645, instead of being appointed under LGC, §375.064.
- Texas Water Code (TWC), §49.011(a), enacted in HB 2815, requires MMDs to complete Creation Notice Actions and Requirements pursuant to Texas Water Code (TWC), §49.011.
- LGC §375.025(c), enacted in HB 2815, adds LGC, Chapter 375, to this list of TWC chapters (36, 50, 51, 54, 55, 58, 65, and 66) which define the required documentation for an application for creation of a district to be submitted to the Texas Commission on Environmental Quality (TCEQ or commission).
- TWC, §54.030(b), enacted in HB 2815, repeals amendments to TWC, §54.030(b) enacted in HB 2914, 86th Legislature, Regular Session, 2019. The amendments remove outdated references to HB 2914 from 30 TAC §293.15(a)(1), and revise application requirements for the conversion of a district in 30 TAC Chapter 293.
- TWC, §49.316, enacted in HB 2815, requires that upon a division of a district, the district must submit the final order to the commission and file the order with the real property records of the county.
- TWC, §57.059, enacted in HB 2815, stipulates that a director of a Levee Improvement District must be at least 18 years old; own land subject to taxation in the district or be a qualified voter in the district; and if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under Section 57.058 from which the director is elected.
- TWC, §57.053(d), enacted in HB 2815, that requires that a director appointed to fill a vacancy must: “be a person qualified to serve as a director under Section 57.059.”
- TWC, §49.4645(a), enacted in SB 938, adds El Paso County to the list of counties that can issue bonds to be supported by ad valorem taxes for recreational facilities.
- TWC, §49.4645(a-1), enacted in HB 1410 (87th Legislative Session) allows a district to have a debt to valuation ratio for recreational facilities of 3% (up from 1%) provided the district meets certain criteria.
- TWC, §49.181, enacted in HB 2815, adds Austin, Brazos, Liberty, Grimes, Wharton and Walker Counties to the list of counties with a maximum projected tax rate limit of

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\$1.50. It also adds Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum projected tax rate limit of \$1.20.

- TWC, §49.273(d) and (e), enacted in HB 3507, requires that a district must advertise and seek three competitive bids if the value of the project is \$150,000 or greater. Additionally, HB 3507 requires that for contracts over \$25,000 but not more than \$150,000, the district must solicit written competitive bids from at least three bids, but they are not required to advertise.
- TWC, §49.011(b), enacted in SB 1397, requires the commission to provide notice to each state representative and state senator who represents the area inside the proposed district.
- TWC, §49.273(i), enacted in HB 3437, allows a district to approve change orders that involve an increase or decrease of \$150,000 or less.

Scope of the rulemaking:

A.) Summary of what the rulemaking would do:

The rulemaking would accomplish the following:

- amend 30 TAC §293.11 to add to 30 TAC §293.11(j)(1)(G) to allow a MMD to request that a succeeding board of directors be elected under LGC, §375.0645 instead of being appointed under LGC, §375.064;
- amend 30 TAC §293.12(a) to require MMDs to complete the Creation Notice Actions and Requirements described by and pursuant to Texas Water Code (TWC), §49.011(a), as amended;
- amend 30 TAC §293.12 to add 30 TAC §293.12(h) requiring the commission to provide notice to each state representative and state senator who represents the area inside a proposed district;
- remove outdated references to HB 2914 from 30 TAC §293.15 and revise application requirements for the conversion of a district in 30 TAC Chapter 293;
- amend 30 TAC §293.32 regarding Levee Improvement District director qualifications to reflect changes made to TWC Chapter 57;
- amend 30 TAC §293.41(e) to add El Paso to the list of counties which can authorize recreational debt;
- amend 30 TAC §293.41(e)(4) to allow a district to have a debt to valuation ratio for recreational facilities of 3% (up from 1%) provided the district meets certain criteria;
- amend Sections in 30 TAC §293.59(k) to add Austin, Brazos, Liberty, Grimes, Wharton and Walker Counties to the list of counties with a maximum projected tax rate limits of \$1.50 and \$2.50;
- amend Sections in 30 TAC §293.59(k) to add Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum projected tax rate limits of \$1.20 and \$2.20;
- amend 30 TAC §293.63(a)(8) requiring a district to advertise for projects \$150,000 or greater (increase from \$75,000 currently and require a district to solicit written bids from at least three bidders for contracts over \$25,000 but not more than \$150,000 (increase from \$75,000 currently);
- amend 30 TAC §293.81(2) to increase the minimum cost of a change order requiring commission approval to those equal to or over \$150,000 (increase to the \$50,000 currently); and
- amend 30 TAC §293.91 to add 30 TAC §293.91(a)(7) requiring a district that's being divided to submit the final order to the commission and file the order with the real property records of the county.

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B.) Scope required by federal regulations or state statutes:

This rulemaking proposes to amend 30 TAC Chapter 293, specifically §§293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91. No federal regulations apply.

C.) Additional staff recommendations that are not required by federal rule or state statute:

There are no additional staff recommendations.

Statutory authority:

LGC, §375.022, 375.025, and 375.0645 and TWC, §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059. The proposed rulemaking implements legislation referenced herein: LGC, §375.022 [HB 2815]; LGC, §375.0645(a)-(f); LGC, §375.025(c) [HB 2815]; TWC, §49.011(a) [HB 2815]; TWC, §49.316(a)-(l) [HB 2815]; TWC, §49.4645(a) [SB 938]; TWC, §49.4645(a-1) [HB 1410]; TWC, §49.181(f-1) [HB 2815]; TWC, §49.273(i) [HB 3437]; TWC, §54.030(b) [HB 2815]; TWC, §57.053(d) [HB2815]; and TWC, §57.059 [HB 2815].

Effect on the:

A.) Regulated community:

- **HB 2815:** The rulemaking would allow a petitioner requesting the creation of a MMD to include in the petition a request to appoint or elect the board of directors upon creation of the district, the regulated entity will have to include this additional information in the Creation application. The regulated entity applying for the Creation of a Municipal Management District would also be subject to a 30-day comment period and potential hearing requests as needed and described by TWC, §49.011.

The regulated entity would have to publish a Notice of Creation and notify the senator and representative of a conversion of any district into a Municipal Utility District. The regulated entity would be responsible for summarizing any pending litigation against the district in the conversion application.

To combine two districts into a single Groundwater Conservation District created by a special act of legislature, the regulated entity would be required to submit to the commission the consolidation agreement describing the powers, authorities, duties, responsibilities, and board of directors for one of the previous districts and then hold an election for a new board per TWC, §49.103. If a hearing is held during the conversion of a district, the regulated entity would be required to submit to the commission a certified resolution adopted by the board of directors as required per TWC, §54.030(d) declaring the judgement of the governing body and how the conversion will benefit the district.

The regulated entity appointing or electing directors for a Levee Improvement District would have to demonstrate in the application for creation of a district that the directors meet TWC, Chapter 57 requirements. Further, the regulated entity would be limited in the appointment of a director to fill a vacancy of a Municipal Utility District if the director meets the requirements of TWC, Chapter 57.

The regulated entities in Austin, Brazos, Liberty, Grimes, Wharton, and Walker counties would have a maximum projected tax rate up to \$1.50. Additionally, those regulated entities in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee and Milam counties would have a projected tax rate of up to \$1.20.

After the division of a district the regulated entity managing a district would have to submit the final order to the commission and file the order with the real property records at the county.

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- **HB 1410:** The regulated entity across the state applying for recreational bonds would have the option to raise the recreational bond ratio to 3% in certain circumstances.
- **HB 3437:** The regulated entity submitting change orders on district projects would only have to submit the change orders for approval by the commission if the project has a value of \$150,000 or greater.
- **HB 3507:** The regulated entity would have to advertise district project contracts and seek at least three competitive bids if the value of the project is \$150,000 or greater.
- **SB 938:** The regulated entity in El Paso would be able to authorize recreational debt.
- **SB 1397:** None. It is the commission's duty to provide notice to the applicable state representative and state senator

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B.) Public:

- **HB 2815:** The public would be allowed to be appointed or elected to the board of directors to a newly created MMD. The public would have the opportunity to comment on and hold hearings regarding the creation of MMDs.

The public would be notified when a district is converted into a Municipal Utility District have a 30-day comment period, and have an opportunity to hold hearings. The public will also have the opportunity to review any pending litigation facing the district subject to conversion.

To combine two districts into a single Groundwater Conservation District created by a special act of legislature, the public will have the opportunity to review the resolution by which it is being created and its benefit to the district.

Those members of the public seeking appointment or election to a Levee Improvement District must meet the requirements of TWC, Chapter 57.

The public in Austin, Brazos, Liberty, Grimes, Wharton, and Walker counties could be taxed by their district up to \$1.50. Additionally, the public in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee and Milam counties could be taxed by their district up to \$1.20.

- **HB 1410:** By increasing the recreational bond debt ratio for districts, the public would be liable for more debt incurred by the district and the public could be taxed at a higher rate as a result of increased debt incurred by the district.
- **HB 3437:** None. Only the regulated entities submitting change orders on district projects are affected.
- **HB 3507:** None. Only the regulated entities proposing district projects would have to advertise and seek bids.
- **SB 938:** The districts in El Paso would be able to authorize recreational debt and charge recreational taxes to the affected public.
- **SB 1397:** None. Notice would be provided directly to the applicable state representative and state senator without any additional notice to the public.

C.) Agency programs:

- **HB 2815:** The Water Supply Division Districts Section would have to take into consideration the appointment or election of the board of directors upon creation of a MMD. Additionally, the creation application of a MMD will come with public notice, comment period, and hearing requirements, as well as notifications sent to the district's senators and representatives.

The Water Supply Division Districts Section will have to process public notice, comment period, and hearing requirements of TWC, §49.011 for the conversion of any district into a Municipal Utility District with wastewater and drainage powers. Further this

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section will facilitate the notification of the district's senators and representatives. Should a hearing take place for the conversion of any district into a Municipal Utility District, the Districts Section will require any pending litigation against the district to be gathered, summarized, and presented at the hearing.

The Districts Section would be required to review the consolidation agreement describing the powers, authorities, duties, responsibilities, and board of directors for one of the previous districts when two Groundwater Conservation Districts consolidate. If a hearing is held during the conversion of a district, the Districts Section would be required to review the certified resolution adopted by the board of directors as required per TWC, §54.030(d) declaring the judgement of the governing body and how the conversion will benefit the district.

In the review of a Creation Application for Levee Improvement District, the Districts Section will evaluate whether appointed or elected directors meet the requirements of TWC, Chapter 57.

In the review of bond applications proposed tax rates, the Districts Section would verify that the proposed tax rate in Austin, Brazos, Liberty, Grimes, Wharton, and Walker counties is at or below \$1.50. and the proposed tax rates in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee and Milam counties is at or below \$1.20.

After the division of a district, the Districts Section would review the final order and require the district to file the order with the real property records at the county.

- **HB 1410:** The Districts Section would consider recreational bond ratios up to 3% for all districts statewide.
- **HB 3437:** The Districts Section would only review change order applications for project costs that are \$150,000 or greater.
- **HB 3507:** Projects with a total cost of \$150,000 or greater would be required to advertise the project contract and seek at least three competitive bids. The Districts Section will be required to review documentation demonstrating that those projects with a total cost of \$150,000 or greater were advertised in accordance with the rule.
- **SB 938:** The Districts Section would review recreation bond applications for those districts located in El Paso County.
- **SB 1397:** The Districts Section would have to provide notice to the Texas state representative and Texas state senator representing the area in which the proposed district would be located when a creation application or petition is submitted to the commission.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

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Potential controversial concerns and legislative interest:

None.

Would this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

The proposed rule changes are required for consistency with state law.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: December 17, 2025

Anticipated *Texas Register* publication date: January 2, 2026

Anticipated public hearing date: January 29, 2026

Anticipated public comment period: January 2 - February 3, 2026

Anticipated adoption date: May 13, 2026

Agency contacts:

Jacob Houston, Rule Project Manager, Water Supply Division, (512) 239-3582

Kayla Murray, Staff Attorney, Environmental Law Division, (512) 239-4761

Corey Bowling, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-6089

Attachments:

HB 1410, HB 2815, HB 3437, HB 3507, SB 938, SB, 1397

cc: Chief Clerk, 2 copies
Executive Director's Office
Jessie Powell
Patrick Lopez
Farrah Court
Office of General Counsel
Jacob Houston
Kayla Murray
Corey Bowling

AN ACT

relating to the issuance of bonds by certain conservation and reclamation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 49.4645, Water Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A district all or part of which is located in Bastrop County, Bexar County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Montgomery County, or Fort Bend County may issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities only if the bonds are authorized by a majority vote of the voters of the district voting in an election held for that purpose. Except as provided by Subsection (a-1), the [The] outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes may not exceed an amount equal to one percent of the value of the taxable property in the district [~~or, if supported by contract taxes under Section 49.108, may not exceed an amount equal to one percent of the value of the taxable property in the districts making payments under the contract~~] as shown by the tax rolls of the central appraisal district at the time of the issuance of the bonds, notes, and other obligations [~~or an amount~~

1 ~~greater than the estimated cost provided in the park plan under~~
2 ~~Subsection (b), whichever is smaller]~~. To establish the value of
3 the taxable property in a district under this section, the district
4 may use an estimate of the value provided by the central appraisal
5 district. The district may not issue bonds supported by ad valorem
6 taxes to pay for the development and maintenance of:

- 7 (1) indoor or outdoor swimming pools; or
- 8 (2) golf courses.

9 (a-1) The outstanding principal amount of bonds, notes, and
10 other obligations issued to finance a recreational facility under
11 Subsection (a) may exceed an amount equal to one percent but not
12 three percent of the value of the taxable property in the district
13 or, if supported by contract taxes under Section 49.108, the value
14 of the taxable property in the districts making payments under the
15 contract, if the district has:

- 16 (1) a ratio of debt to certified assessed valuation of
17 10 percent or less;
- 18 (2) a credit rating that conforms to commission rules;
- 19 (3) a credit enhanced rating on the district's
20 proposed bond issue that conforms to commission rules; or
- 21 (4) a contract with a political subdivision or an
22 entity acting on behalf of a political subdivision under which the
23 political subdivision or the entity agrees to provide to the
24 district taxes or other revenues, as consideration for the
25 district's development or acquisition of the facility, including a
26 contract under Section 49.108.

27 SECTION 2. Section 54.016(e), Water Code, is amended to

1 read as follows:

2 (e) A city may provide in its written consent to the
3 inclusion of land in a district, that the district construct all
4 facilities to serve the land in accordance with plans and
5 specifications which have been approved by the city. The city may
6 also provide in its written consent that the city shall have the
7 right to inspect all facilities being constructed by a district.
8 The city's consent to the inclusion of land in the district may also
9 contain restrictions on the terms and provisions of the district's
10 bonds and notes issued to provide service to the land and conditions
11 on the sale of the district's bonds and notes if the restrictions
12 and conditions do not generally render the bonds and notes of
13 districts in the city's extraterritorial jurisdiction
14 unmarketable. The city's consent to the inclusion of land in a
15 district may restrict the purposes for which a district may issue
16 bonds to [the] purposes authorized by law for the district ~~[of the~~
17 ~~purchase, construction, acquisition, repair, extension and~~
18 ~~improvement of land, easements, works, improvements, facilities,~~
19 ~~plants, equipment and appliances necessary to:~~

20 ~~[(1) provide a water supply for municipal uses,~~
21 ~~domestic uses and commercial purposes,~~

22 ~~[(2) collect, transport, process, dispose of and~~
23 ~~control all domestic, industrial or communal wastes whether in~~
24 ~~fluid, solid or composite state, and~~

25 ~~[(3) gather, conduct, divert and control local storm~~
26 ~~water or other local harmful excesses of water in the district and~~
27 ~~the payment of organization expenses, operation expenses during~~

1 ~~construction and interest during construction]~~.

2 SECTION 3. The change in law made by this Act to Section
3 54.016(e), Water Code, does not affect the terms of a city's
4 resolution or ordinance adopted before the effective date of this
5 Act that constitutes a valid, written consent under Section 54.016
6 of that code for land that was included in a district prior to the
7 effective date of this Act.

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1410 was passed by the House on April 14, 2021, by the following vote: Yeas 131, Nays 14, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1410 on May 28, 2021, by the following vote: Yeas 126, Nays 17, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1410 was passed by the Senate, with amendments, on May 27, 2021, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to the powers, authorities, duties, and responsibilities
3 of certain conservation and reclamation districts and to notice a
4 person who proposes to sell or convey real property located in any
5 of certain conservation and reclamation districts must provide to a
6 prospective purchaser of that property.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 375.022, Local Government Code, is
9 amended by adding Subsections (d) and (e) to read as follows:

10 (d) The petition may request that a succeeding board of
11 directors be elected under Section 375.0645 instead of being
12 appointed under Section 375.064.

13 (e) On receipt by the commission of a petition that complies
14 with this section, the commission shall issue a notice indicating
15 that the petition is administratively complete and may conduct a
16 hearing on the petition in the manner provided by Section 49.011,
17 Water Code, if the commission determines that a hearing is
18 necessary.

19 SECTION 2. Section 375.025(c), Local Government Code, is
20 amended to read as follows:

21 (c) If [~~after the hearing~~] the commission finds that the
22 petition is sufficient and conforms to the requirements of Section
23 375.022(c) and that the district is feasible [~~and necessary~~] and
24 would benefit the public, the commission by order shall make that

1 finding and grant the petition. In determining if the project is
2 feasible [~~and necessary~~] and would benefit the public, the
3 commission shall consider:

4 (1) the availability of comparable services from other
5 systems, including special districts, municipalities, and regional
6 authorities; and

7 (2) the reasonableness of the proposed public purpose
8 projects and services.

9 SECTION 3. Subchapter D, Chapter 375, Local Government
10 Code, is amended by adding Section 375.0645 to read as follows:

11 Sec. 375.0645. ELECTION OF DIRECTORS. (a) This section
12 applies only to a district created by order of the commission
13 providing for an elected board of directors as requested in the
14 petition requesting creation of the district as provided by Section
15 375.022(d).

16 (b) The commission shall appoint the initial directors
17 under Section 375.026, and subsequent directors are elected in the
18 manner provided by Subchapter D, Chapter 49, Water Code.

19 (c) An elected director is entitled to receive fees of
20 office and reimbursement for actual expenses as provided by Section
21 49.060, Water Code.

22 (d) Sections 375.069 and 375.070 do not apply to an elected
23 director.

24 (e) Section 49.052(f), Water Code, does not exempt an
25 elected director from disqualification under that section.

26 (f) Sections 375.064, 375.161, and 375.243 do not apply to a
27 district with an elected board.

1 SECTION 4. Section 375.065, Local Government Code, is
2 amended to read as follows:

3 Sec. 375.065. REMOVAL OF DIRECTOR. The governing body of
4 the municipality after notice and hearing may remove a director
5 appointed by the municipality for misconduct or failure to carry
6 out the director's duties on petition by a majority of the remaining
7 directors.

8 SECTION 5. Section 375.067(a), Local Government Code, is
9 amended to read as follows:

10 (a) As soon as practicable after a director is appointed or
11 elected as provided by this subchapter, the director shall execute
12 a \$10,000 bond payable to the district and conditioned on the
13 faithful performance of the director's duties.

14 SECTION 6. Section 375.068, Local Government Code, is
15 amended to read as follows:

16 Sec. 375.068. OFFICERS. After directors are appointed or
17 elected as provided by this subchapter and have qualified by
18 executing a bond and taking the oath, they shall organize by
19 electing a president, a vice-president, a secretary, and any other
20 officers the board considers necessary.

21 SECTION 7. Section 375.071, Local Government Code, is
22 amended to read as follows:

23 Sec. 375.071. QUORUM. (a) One-half of the serving
24 directors constitutes a quorum, and a concurrence of a majority of a
25 quorum of directors is required for any official action of the
26 district.

27 (b) If at least two-thirds of the directors execute a

1 written consent at any time, a majority of a quorum at a board
2 meeting may [~~The written consent of at least two-thirds of the~~
3 ~~directors is required to~~] authorize the levy of assessments, the
4 levy of taxes, the imposition of impact fees, or the issuance of
5 bonds. A director may execute a written consent outside of a board
6 meeting.

7 SECTION 8. Section 375.161(b), Local Government Code, is
8 amended to read as follows:

9 (b) This section does not apply to a tax or assessment, if a
10 tax is authorized or approved by the voters of the district, or to a
11 required payment for a service provided by the district, including
12 water and sewer services.

13 SECTION 9. Section 375.208, Local Government Code, is
14 amended to read as follows:

15 Sec. 375.208. COMMISSION APPROVAL. A district must obtain
16 approval of the commission as provided by Section 49.181 [~~Chapter~~
17 ~~54~~], Water Code, only if the [~~it issues~~] bonds are to provide water,
18 sewage, or drainage facilities. [~~Except as expressly provided by~~
19 ~~this section and Sections 375.062 and 375.064, a district is not~~
20 ~~subject to the jurisdiction of the commission.~~]

21 SECTION 10. Section 3919.205(d), Special District Local
22 Laws Code, is amended to read as follows:

23 (d) The district shall generate and implement a program to
24 provide notice modeled on the notice described by Section 49.4521
25 [~~49.452(c)~~], Water Code, to a prospective purchaser of property in
26 the district of the assessments that have been approved and are
27 imposed by the district.

1 SECTION 11. Section 49.011(a), Water Code, is amended to
2 read as follows:

3 (a) On receipt by the commission of all required
4 documentation associated with an application for creation of a
5 district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65,
6 or 66 of this code or Chapter 375, Local Government Code, the
7 commission shall issue a notice indicating that the application is
8 administratively complete.

9 SECTION 12. Section 49.060, Water Code, is amended by
10 amending Subsection (a) and adding Subsection (a-2) to read as
11 follows:

12 (a) A director is entitled to receive fees of office [~~of not~~
13 ~~more than \$150 a day~~] for each day the director actually spends
14 performing the duties of a director. The board by resolution shall
15 set the fees of office. The board may not set the fees of office at
16 an amount greater than the amount of the per diem set by the Texas
17 Ethics Commission for members of the legislature under Section 24a,
18 Article III, Texas Constitution. In this subsection, "performing
19 the duties of a director" means substantive performance of the
20 management or business of the district, including participation in
21 board and committee meetings and other activities involving the
22 substantive deliberation of district business and in pertinent
23 educational programs. The phrase does not include routine or
24 ministerial activities such as the execution of documents,
25 self-preparation for meetings, or other activities requiring a
26 minimal amount of time.

27 (a-2) Notwithstanding Subsection (a-1), an authority

1 created by special law, by resolution of the board, may not set the
2 annual limit on the fees of office described by that subsection at
3 an amount greater than the amount a director would receive for 60
4 days of service a year at the maximum daily rate authorized by
5 Subsection (a).

6 SECTION 13. Section 49.063, Water Code, is amended by
7 adding Subsections (d) and (e) to read as follows:

8 (d) A district that is required by law to post notice of a
9 meeting on an Internet website may instead provide the notice to the
10 county clerk of each county in which the district is located to post
11 the notice on the county clerk's or county's Internet website.

12 (e) Failure to timely or properly post a notice of a meeting
13 on an Internet website does not prohibit a district from conducting
14 the meeting if the notice required by Section 551.054(a)(1),
15 Government Code, is posted timely and properly.

16 SECTION 14. Section 49.065, Water Code, is amended by
17 adding Subsection (d) to read as follows:

18 (d) Subsection (b) applies to a personal e-mail address of a
19 director only if the district does not make available to the public
20 an official e-mail address for the director or the district. In
21 this subsection, "personal e-mail address" means an e-mail address
22 that is not paid for by district money and is not used primarily for
23 the transaction of official business of the district.

24 SECTION 15. Section 49.102, Water Code, is amended by
25 amending Subsection (j) and adding Subsections (k) and (l) to read
26 as follows:

27 (j) The provisions of this section requiring a confirmation

1 election do not apply to a [~~shall not be applicable to any~~] district
2 exercising the powers of Chapter 375, Local Government Code, or any
3 district created by a special Act of the legislature that does not
4 require a confirmation election.

5 (k) Notwithstanding any other law, if the board determines
6 that it is in the best interest of the district and the voters of the
7 district for the district to administer an election under this
8 section, the district shall establish precincts and designate
9 polling locations inside the boundaries of the district.

10 (l) Section 43.075, Local Government Code, does not apply to
11 a district until the board declares the district is created under
12 Subsection (e) of this section.

13 SECTION 16. Section 49.106, Water Code, is amended by
14 amending Subsection (e) and adding Subsection (f) to read as
15 follows:

16 (e) A district's authorization to issue bonds resulting
17 from an election held under this section, or any other law that
18 allows for the qualified voters of a district to authorize the
19 issuance of bonds by a district, remains in effect after the
20 election unless the district is dissolved [~~or is annexed by another~~
21 ~~district~~].

22 (f) The board may submit new bond authorization and
23 refunding bond authorization in a single proposition at an
24 election.

25 SECTION 17. Section 49.181, Water Code, is amended by
26 adding Subsection (f-1) to read as follows:

27 (f-1) For the purposes of evaluating the financial

1 feasibility of a project financed by a bond, the commission shall
2 consider:

3 (1) a district located wholly or partly in Austin,
4 Brazos, Chambers, Grimes, Liberty, Walker, or Wharton County as if
5 the district were located in Harris County; and

6 (2) a district located wholly or partly in Bastrop,
7 Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, or Milam
8 County as if the district were located in Travis County.

9 SECTION 18. Section 49.23602(c), Water Code, is amended to
10 read as follows:

11 (c) If the board of a district adopts a combined debt
12 service, contract, and operation and maintenance tax rate that
13 exceeds the district's mandatory tax election rate, an election
14 must be held in accordance with the procedures provided by Sections
15 26.07(c)-(g), Tax Code, to determine whether to approve the adopted
16 tax rate. If the adopted tax rate is not approved at the election,
17 the district's tax rate is the voter-approval tax rate. An election
18 is not required if the adopted tax rate is less than or equal to the
19 voter-approval tax rate.

20 SECTION 19. Section 49.271, Water Code, is amended by
21 amending Subsection (e) and adding Subsection (f) to read as
22 follows:

23 (e) A [~~district~~] contract for construction work may include
24 economic incentives for early completion of the work or economic
25 disincentives for late completion of the work.

26 (f) The provisions of this section apply to a contract for
27 construction work entered into by a third party on behalf of a

1 district.

2 SECTION 20. Subchapter J, Chapter 49, Water Code, is
3 amended by adding Section 49.316 to read as follows:

4 Sec. 49.316. DIVISION OF DISTRICT. (a) The board, on its
5 own motion or on receipt of a petition signed by the owner or owners
6 of a majority of the assessed value of the real property in the
7 district, may adopt an order dividing the district.

8 (b) An order dividing a district may create one or more new
9 districts and may provide for the continuation of the district.

10 (c) An order dividing the district shall:

11 (1) name any new district;

12 (2) include the metes and bounds description of the
13 territory of each of the districts;

14 (3) appoint temporary directors for any new district;

15 and

16 (4) provide for the division of assets and liabilities
17 between the districts.

18 (d) The board may adopt an order dividing the district
19 before or after the date the board holds an election to confirm the
20 district's creation.

21 (e) The district may be divided only if the district:

22 (1) has never issued any bonds; and

23 (2) is not imposing ad valorem taxes.

24 (f) A new district created by the division of the district
25 may not, at the time the new district is created, contain any land
26 outside the area of the district at the time of creation.

27 (g) On or before the 30th day after the date of adoption of

1 an order dividing the district, the district shall file the order
2 with the commission and record the order in the real property
3 records of each county in which the district is located.

4 (h) A new district created by the division of the district
5 shall hold a confirmation and directors' election.

6 (i) If the creation of a new district is confirmed, the new
7 district shall provide the election date and results to the
8 commission.

9 (j) A new district created by the division of the district
10 must hold an election as required by this chapter to obtain voter
11 approval before the district may impose a maintenance tax or issue
12 bonds payable wholly or partly from ad valorem taxes.

13 (k) Municipal consent to the creation of the district and to
14 the inclusion of land in the district acts as municipal consent to
15 the creation of any new district created by the division of the
16 district and to the inclusion of land in the new district.

17 (l) The district may continue to rely on confirmation,
18 directors', bond, and tax elections held before the division.

19 SECTION 21. Section 49.452, Water Code, is amended by
20 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
21 read as follows:

22 (a) In this section, "district" means a district:

23 (1) governed by Chapter 375, Local Government Code; or

24 (2) [~~(1) Any person who proposes to sell or convey~~
25 ~~real property located in a district~~] created under this title or by
26 a special Act of the legislature that:

27 (A) is providing or proposing to provide, as the

1 district's principal function, water, sanitary sewer, drainage,
2 and flood control or protection facilities or services, or any of
3 these facilities or services that have been financed or are
4 proposed to be financed with bonds of the district payable in whole
5 or part from taxes of the district, or by imposition of a standby
6 fee, if any, to household or commercial users, other than
7 agricultural, irrigation, or industrial users; ~~[7]~~ and

8 (B) ~~[which district]~~ includes less than all the
9 territory in at least one county and which, if located within the
10 corporate area of a city, includes less than 75 percent of the
11 incorporated area of the city or which is located outside the
12 corporate area of a city in whole or in substantial part ~~[, must~~
13 ~~first give to the purchaser the written notice provided in this~~
14 ~~section]~~.

15 (a-1) A person who proposes to sell or convey real property
16 located in a district must give to the purchaser the written notice
17 as provided by this section and Section 49.4521.

18 (a-2) ~~[(2)]~~ The provisions of this section are ~~[shall]~~ not
19 ~~[be]~~ applicable to:

20 (1) ~~[(A)]~~ transfers of title under any type of lien
21 foreclosure;

22 (2) ~~[(B)]~~ transfers of title by deed in cancellation
23 of indebtedness secured by a lien upon the property conveyed;

24 (3) ~~[(C)]~~ transfers of title by reason of a will or
25 probate proceedings; ~~[or]~~

26 (4) ~~[(D)]~~ transfers of title to a governmental entity;

27 or

1 (5) transfers of title for the purpose of qualifying a
2 director.

3 SECTION 22. Subchapter M, Chapter 49, Water Code, is
4 amended by adding Section 49.4521 to read as follows:

5 Sec. 49.4521. PRESCRIBED NOTICE TO PURCHASERS. (a) A
6 notice to a purchaser provided under Section 49.452 must include:

7 (1) a title caption in at least a 24-point, bold font
8 stating "NOTICE TO PURCHASER OF SPECIAL TAXING OR ASSESSMENT
9 DISTRICT"; and

10 (2) the following statements, as applicable to the
11 district:

12 (A) "The real property that you are about to
13 purchase is located in the (insert name of district) and may be
14 subject to district taxes or assessments.";

15 (B) "The district may, subject to voter approval,
16 impose taxes and issue bonds. The district may impose an unlimited
17 rate of tax in payment of such bonds.";

18 (C) one of the following, as applicable:

19 (i) "The current rate of the district
20 property tax is (insert current property tax rate) on each \$100 of
21 assessed valuation."; or

22 (ii) "The district has not yet imposed
23 taxes. The projected rate of the district property tax is (insert
24 projected property tax rate) on each \$100 of assessed valuation.";

25 (D) "The district may impose assessments and
26 issue bonds and impose an assessment in payment of such bonds.";

27 (E) one of the following, as applicable:

1 (i) "The rate of the district assessment is
2 (insert current assessment amount) on each \$100 of assessed
3 valuation.";

4 (ii) "The amount of the district assessment
5 on the real property that you are about to purchase is (insert
6 current assessment amount)."; or

7 (iii) "The district has not yet imposed an
8 assessment, but the projected (insert "rate" or "amount", as
9 applicable) of the assessment is (insert projected assessment rate
10 or amount, as applicable).";

11 (F) "The total amounts of bonds payable wholly or
12 partly from (insert "property taxes" or "assessments", as
13 applicable) (insert ", excluding refunding bonds that are
14 separately approved by the voters" or ", excluding any bonds or any
15 portions of bonds issued that are payable solely from revenues
16 received or expected to be received under a contract with a
17 governmental entity", as applicable), approved by the voters are:

18 (i) \$(insert amount) for water, sewer, and
19 drainage facilities;

20 (ii) \$(insert amount) for road facilities;

21 (iii) \$(insert amount) for parks and
22 recreational facilities; and

23 (iv) \$(insert amount) for (description of
24 additional facilities, as applicable).";

25 (G) "The aggregate initial principal amounts of
26 all such bonds issued are:

27 (i) \$(insert amount) for water, sewer, and

1 drainage facilities;

2 (ii) \$(insert amount) for road facilities;

3 (iii) \$(insert amount) for parks and

4 recreational facilities; and

5 (iv) \$(insert amount) for (description of

6 additional facilities, as applicable).";

7 (H) "The district sought and obtained approval of

8 the Texas Commission on Environmental Quality to adopt and impose a

9 standby fee. The amount of the standby fee is \$(insert amount of

10 standby fee). An unpaid standby fee is a personal obligation of the

11 person that owned the property at the time of imposition and is

12 secured by a lien on the property. Any person may request a

13 certificate from the district stating the amount, if any, of unpaid

14 standby fees on a tract of property in the district.";

15 (I) if applicable, one of the following:

16 (i) "The district is located wholly or

17 partly in the extraterritorial jurisdiction of the City of (insert

18 name of the municipality). Texas law governs the ability of a

19 municipality to annex property in the municipality's

20 extraterritorial jurisdiction and whether a district that is

21 annexed by the municipality is dissolved."; or

22 (ii) "The district is located wholly or

23 partly within the corporate boundaries of the City of (insert name

24 of the municipality). The municipality and the district overlap,

25 but may not provide duplicate services or improvements. Property

26 located in the municipality and the district is subject to taxation

27 by the municipality and the district.";

1 (J) "The district has entered into a strategic
2 partnership agreement with the City of (insert name of the
3 municipality). This agreement may address the timeframe, process,
4 and procedures for the municipal annexation of the area of the
5 district located in the municipality's extraterritorial
6 jurisdiction.";

7 (K) "The purpose of the district is to provide
8 (insert water, sewer, drainage, flood control, firefighting, road,
9 parks and recreational, or other type of facilities or services, as
10 applicable) facilities and services. The cost of district
11 facilities is not included in the purchase price of your
12 property.";

13 (L) "PURCHASER IS ADVISED THAT THE INFORMATION
14 SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME.
15 THE DISTRICT ANNUALLY ESTABLISHES TAX RATES. PURCHASER IS ADVISED
16 TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR
17 PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM."; and

18 (M) "The undersigned purchaser hereby
19 acknowledges receipt of the foregoing notice at or before the
20 execution of a binding contract for the purchase of the real
21 property or at closing of purchase of the real property.".

22 (b) The district shall omit or edit for accuracy statements
23 not applicable to the district, as determined by the district.

24 (c) The notice must be dated and executed by the seller and
25 the purchaser.

26 (d) If the law is amended and causes inaccuracies in the
27 content of the notice, the district shall revise the content of the

1 notice to accurately reflect current law.

2 SECTION 23. Section 49.453, Water Code, is amended by
3 adding Subsection (e) to read as follows:

4 (e) A district required to maintain an Internet website or
5 have access to a generally accessible Internet website under
6 Section 26.18, Tax Code, shall post or create a process for posting
7 the district's notice to purchasers under Section 49.4521 on the
8 applicable Internet website.

9 SECTION 24. Section 49.455(c), Water Code, is amended to
10 read as follows:

11 (c) The information form [~~and map or plat~~] required by this
12 section shall be signed by a majority of the members of the board
13 and by each such officer affirmed and acknowledged before it is
14 filed with the county clerk, and each amendment made to an
15 information form [~~or map~~] shall also be signed by the members of the
16 board and by each such officer affirmed and acknowledged before it
17 is filed with the county clerk.

18 SECTION 25. Subchapter 0, Chapter 51, Water Code, is
19 amended by adding Section 51.7131 to read as follows:

20 Sec. 51.7131. ALTERNATIVE SUBSTITUTION PROCEDURES.
21 Notwithstanding this subchapter, a district may substitute land in
22 the manner provided by Sections 54.739-54.747.

23 SECTION 26. Section 53.029(e), Water Code, is amended to
24 read as follows:

25 (e) A district that has adopted the rights, authority,
26 privileges, and functions of a road district in the manner provided
27 by Subsection (c) may, following approval of a construction

1 contract by the district's governing body, reimburse expenditures
2 as provided by Sections 257.003(a), ~~[and]~~ (b), and (d),
3 Transportation Code, without any additional approval or
4 determination under Section 257.003, Transportation Code.

5 SECTION 27. Section 54.016, Water Code, is amended by
6 adding Subsection (f-1) to read as follows:

7 (f-1) An agreement between a municipality and a municipal
8 utility district is an allocation agreement only if:

9 (1) the agreement strictly complies with the
10 requirements of Subsection (f); and

11 (2) the agreement is specifically designated by the
12 parties to the agreement as an "allocation agreement" under
13 Subsection (f).

14 SECTION 28. Sections 54.234(d) and (e), Water Code, are
15 amended to read as follows:

16 (d) If the commission issues an order approving the
17 petition, the district may undertake a road project if:

18 (1) the municipality or county with platting
19 jurisdiction ~~[that will operate and maintain the road]~~ has approved
20 the plans and specifications of the road project; or

21 (2) the Texas Transportation Commission has approved
22 the plans and specifications of the road project, if the state is to
23 operate and maintain the road.

24 (e) Notwithstanding any other law and except ~~[Except]~~ as
25 provided by Subsection (d), a district is not required to obtain
26 approval from the Texas Transportation Commission to acquire,
27 construct, convey, or finance the road project.

1 SECTION 29. Section 54.728, Water Code, is amended to read
2 as follows:

3 Sec. 54.728. CONSOLIDATION OF DISTRICTS. (a) Two or more
4 districts governed by the provisions of this chapter may
5 consolidate into one district as provided by Sections 54.729-54.733
6 of this code.

7 (b) One or more districts governed by the provisions of this
8 chapter and one or more districts governed by the provisions of
9 Chapter 375, Local Government Code, may consolidate into one
10 district as provided by this subsection and Sections 54.729-54.733
11 of this code. The initial directors of the consolidated district
12 shall be elected and serve terms as provided by Section 49.103 of
13 this code. The consolidation agreement under this subsection may
14 provide that the consolidated district continue operating with the
15 powers, authorities, duties, responsibilities, and board of
16 directors of one of the original districts before consolidation.

17 (c) After the initial election of directors, a district
18 consolidated under Subsection (b) is governed as agreed by either:

19 (1) an elected board of directors, who must be elected
20 at a general election in the manner and for the terms provided by
21 Section 49.103; or

22 (2) an appointed board of directors, who must be
23 appointed as provided under Chapter 375, Local Government Code.

24 SECTION 30. Section 57.053, Water Code, is amended by
25 amending Subsection (a) and adding Subsection (d) to read as
26 follows:

27 (a) A vacancy on an appointed board is filled by the

1 appointment of a director by a majority vote of the commissioners
2 court. [~~A director appointed to fill a vacancy must be a person~~
3 ~~qualified for election as a director under Section 57.059.~~] The
4 commissioners court shall appoint directors so that the board will
5 always have full membership.

6 (d) A director appointed to fill a vacancy must be a person
7 qualified to serve as a director under Section 57.059.

8 SECTION 31. Section 57.059, Water Code, is amended to read
9 as follows:

10 Sec. 57.059. QUALIFICATIONS FOR ~~[ELECTED]~~ DIRECTORS. To be
11 qualified to serve [~~for election~~] as a director, a person must:

- 12 (1) be at least 18 years old;
13 (2) own land subject to taxation in the district or be
14 a qualified voter in the district; [~~property taxpaying elector of~~
15 ~~the precinct and county from which he is elected~~] and
16 (3) if the director is elected, be a qualified voter of
17 the precinct in the district established by the commissioners court
18 under Section 57.058 from which the director is elected [~~be~~
19 ~~eligible under the constitution and laws of this state to hold the~~
20 ~~office to which he is elected~~].

21 SECTION 32. The following provisions are repealed:

22 (1) Sections 375.023 and 375.024, Local Government
23 Code;

24 (2) Sections 375.025(a) and (b), Local Government
25 Code;

26 (3) Sections 49.452(b), (c), (d), and (e), Water Code;

27 (4) Sections 49.455(f) and (h), Water Code;

1 (5) Section 54.030(b), Water Code, as amended by
2 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular
3 Session, 2019;

4 (6) Section 54.032(a), Water Code, as amended by
5 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular
6 Session, 2019;

7 (7) Section 54.033(a), Water Code, as amended by
8 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular
9 Session, 2019; and

10 (8) Section 54.103, Water Code.

11 SECTION 33. (a) Section 49.452, Water Code, as amended by
12 this Act, and Section 49.4521, Water Code, as added by this Act,
13 apply only to notice given to a purchaser of real property within a
14 water district on or after the effective date of this Act. Notice
15 given to a purchaser before the effective date is governed by the
16 law in effect at the time the notice was given, and that law is
17 continued in effect for that purpose.

18 (b) Section 49.455, Water Code, as amended by this Act,
19 applies only to an information form filed on or after the effective
20 date of this Act. An information form filed before the effective
21 date of this Act is governed by the law in effect on the date the
22 form was filed, and that law is continued in effect for that
23 purpose.

24 SECTION 34. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

H.B. No. 2815

1 effect, this Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 2815 was passed by the House on May 12, 2023, by the following vote: Yeas 124, Nays 16, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2815 on May 26, 2023, by the following vote: Yeas 129, Nays 9, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2815 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the authority to approve change orders for certain contracts for the construction, repair, and renovation of water district facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 49.273(i), Water Code, is amended to read as follows:

(i) If changes in plans, specifications, or scope of work are necessary or beneficial to the district, as determined by the board, after the performance of the contract is begun, or if it is necessary or beneficial to the district, as determined by the board, to decrease or increase the quantity of the work to be performed or of the materials, equipment, or supplies to be furnished, the board may approve change orders making the changes. The board may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of \$150,000 [~~\$50,000~~] or less. The aggregate of the change orders that increase the original contract price by more than 25 percent may be issued only as a result of unanticipated conditions encountered during construction, repair, or renovation or changes in regulatory criteria or to facilitate project coordination with other political entities. A change order is not subject to the requirements of Subsection (d) or (e).

1 SECTION 2. The changes in law made by this Act apply only to
2 a change order approved on or after the effective date of this Act.
3 A change order approved before the effective date of this Act is
4 governed by the law in effect on the date the change order was
5 approved, and the former law is continued in effect for that
6 purpose.

7 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3437 was passed by the House on April 28, 2023, by the following vote: Yeas 134, Nays 10, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3437 was passed by the Senate on May 12, 2023, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to contracts for the construction, repair, and renovation of certain conservation and reclamation district facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 49.273(d) and (e), Water Code, are amended to read as follows:

(d) For contracts over \$150,000 [~~\$75,000~~], the board shall advertise the letting of the contract, including the general conditions, time, and place of opening of sealed bids. The notice must be published in one or more newspapers circulated in each county in which the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. The notice must be published once a week for two consecutive weeks before the date that the bids are opened, and the first publication must be not later than the 14th day before the date of the opening of the sealed bids.

(e) For contracts over \$25,000 but not more than \$150,000 [~~\$75,000~~], the board shall solicit written competitive bids on uniform written specifications from at least three bidders.

SECTION 2. Section 49.273, Water Code, as amended by this Act, applies only to a contract for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the

1 effective date of this Act.

2 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3507 was passed by the House on April 28, 2023, by the following vote: Yeas 138, Nays 6, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3507 was passed by the Senate on May 12, 2023, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

1
2 relating to the issuance by certain conservation and reclamation
3 districts of bonds for the development and maintenance of
4 recreational facilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 49.4645(a), Water Code, is amended to
7 read as follows:

8 (a) A district all or part of which is located in Bastrop
9 County, Bexar County, Waller County, Travis County, Williamson
10 County, Harris County, Galveston County, Brazoria County,
11 Montgomery County, El Paso County, or Fort Bend County may issue
12 bonds supported by ad valorem taxes to pay for the development and
13 maintenance of recreational facilities only if the bonds are
14 authorized by a majority vote of the voters of the district voting
15 in an election held for that purpose. Except as provided by
16 Subsection (a-1), the outstanding principal amount of bonds, notes,
17 and other obligations issued to finance [~~parks and~~] recreational
18 facilities supported by ad valorem taxes may not exceed an amount
19 equal to one percent of the value of the taxable property in the
20 district as shown by the tax rolls of the central appraisal district
21 at the time of the issuance of the bonds, notes, and other
22 obligations. To establish the value of the taxable property in a
23 district under this section, the district may use an estimate of the
24 value provided by the central appraisal district. The district may

1 not issue bonds supported by ad valorem taxes to pay for the
2 development and maintenance of:

3 (1) indoor or outdoor swimming pools; or

4 (2) golf courses.

5 SECTION 2. This Act takes effect on the date on which the
6 constitutional amendment proposed by the 88th Legislature, Regular
7 Session, 2023, relating to the authority of the legislature to
8 permit conservation and reclamation districts in El Paso County to
9 issue bonds supported by ad valorem taxes to fund the development
10 and maintenance of parks and recreational facilities is approved by
11 the voters. If that amendment is not approved by the voters, this
12 Act has no effect.

S.B. No. 938

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 938 passed the Senate on April 11, 2023, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

I hereby certify that S.B. No. 938 passed the House on April 28, 2023, by the following vote: Yeas 103, Nays 41, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT

relating to the continuation and functions of the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.05101, Health and Safety Code, is amended to read as follows:

Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The commission may develop by rule the criteria to establish a de minimis level of air contaminants for facilities or groups of facilities below which the following types of permits are not required:

(1) a permit under Section 382.0518 or 382.0519;

(2) ~~[a]~~ a standard permit under Section 382.05195, ~~[or 382.05198]~~, or 382.051985; or

(3) ~~[a]~~ a permit by rule under Section 382.05196 ~~[is not required]~~.

SECTION 2. Section 382.0511(c), Health and Safety Code, is amended to read as follows:

(c) The commission may authorize changes in a federal source to proceed before the owner or operator obtains a federal operating permit or revisions to a federal operating permit if:

(1) the changes are de minimis under Section 382.05101; or

(2) the owner or operator:

1 (A) has obtained a preconstruction permit or
2 permit amendment required by Section 382.0518; or

3 (B) is operating under:

4 (i) a standard permit under Section
5 382.05195, ~~or~~ 382.05198, or 382.051985;

6 (ii) a permit by rule under Section
7 382.05196; or

8 (iii) an exemption allowed under Section
9 382.057.

10 SECTION 3. Subchapter C, Chapter 382, Health and Safety
11 Code, is amended by adding Section 382.051985 to read as follows:

12 Sec. 382.051985. STANDARD PERMIT FOR CERTAIN TEMPORARY
13 CONCRETE PLANTS FOR PUBLIC WORKS. (a) The commission shall issue a
14 standard permit that meets the requirements of Section 382.05195
15 for a temporary concrete plant that performs wet batching, dry
16 batching, or central mixing to support a public works project. A
17 plant operating under the permit:

18 (1) may not support a project that is not related to
19 the public works project; and

20 (2) must be located in or contiguous to the
21 right-of-way of the public works project.

22 (b) A plant permitted under this section may occupy a
23 designated site for not more than 180 consecutive days or to supply
24 material for a single project, but not other unrelated projects.

25 SECTION 4. Section 382.056, Health and Safety Code, is
26 amended by adding Subsection (k-2) to read as follows:

27 (k-2) Notwithstanding any other law, if the commission

1 holds a public meeting for a permit application for which
2 consolidated notice was issued under this subchapter, the
3 commission shall hold open the public comment period and the period
4 for which a contested case hearing may be requested for the permit
5 application for at least 36 hours after the end of the meeting.

6 SECTION 5. Section 5.014, Water Code, is amended to read as
7 follows:

8 Sec. 5.014. SUNSET PROVISION. The Texas Commission on
9 Environmental Quality is subject to Chapter 325, Government Code
10 (Texas Sunset Act). Unless continued in existence as provided by
11 that chapter, the commission is abolished [~~and this chapter~~
12 ~~expires~~] September 1, 2035 [~~2023~~].

13 SECTION 6. Section 5.0535, Water Code, is amended by
14 amending Subsection (b) and adding Subsection (d) to read as
15 follows:

16 (b) The training program must provide the person with
17 information regarding:

18 (1) the law governing [~~legislation that created the~~]
19 commission operations;

20 (2) the programs, functions, rules, and budget of
21 [~~operated by~~] the commission;

22 (3) the scope of and limitations on the rulemaking
23 authority of the commission [~~the role and functions of the~~
24 ~~commission~~];

25 (4) [~~the rules of the commission, with an emphasis on~~
26 ~~the rules that relate to disciplinary and investigatory authority,~~

27 [~~(5) the current budget for the commission,~~

1 ~~[(6)]~~ the results of the most recent formal audit
2 ~~[significant internal and external audits]~~ of the commission;

3 (5) ~~[(7)]~~ the requirements of:

4 (A) laws relating to ~~[the]~~ open meetings, ~~[law,~~
5 ~~Chapter 551, Government Code,~~

6 ~~[(B) the]~~ public information, ~~[law, Chapter 552,~~
7 ~~Government Code,~~

8 ~~[(C) the]~~ administrative procedure, and
9 disclosing conflicts-of-interest ~~[law, Chapter 2001, Government~~
10 ~~Code; and~~

11 ~~[(D) other laws relating to public officials,~~
12 ~~including conflict-of-interest laws]; and~~

13 (B) other laws applicable to members of a state
14 policy-making body in performing their duties; and

15 (6) ~~[(8)]~~ any applicable ethics policies adopted by
16 the commission or the Texas Ethics Commission.

17 (d) The executive director shall create a training manual
18 that includes the information required by Subsection (b). The
19 executive director shall distribute a copy of the training manual
20 annually to each member of the commission. Each member of the
21 commission shall sign and submit to the executive director a
22 statement acknowledging that the member received and has reviewed
23 the training manual.

24 SECTION 7. Section 5.113, Water Code, is amended to read as
25 follows:

26 Sec. 5.113. COMMISSION AND STAFF RESPONSIBILITY POLICY.
27 The commission shall develop and implement policies that clearly

1 separate the policy-making [~~the respective~~] responsibilities of
2 the commission and the management responsibilities of the executive
3 director and the staff of the commission.

4 SECTION 8. The heading to Section 5.129, Water Code, is
5 amended to read as follows:

6 Sec. 5.129. SUMMARY OF AND INFORMATION PROVIDED BY [~~FOR~~]
7 PUBLIC NOTICES.

8 SECTION 9. Section 5.129, Water Code, is amended by
9 amending Subsection (a) and adding Subsection (a-1) to read as
10 follows:

11 (a) The commission by rule shall provide for each public
12 notice issued or published by the commission or by a person under
13 the jurisdiction of the commission as required by law or by
14 commission rule to include:

15 (1) at the beginning of the notice a succinct
16 statement of the subject of the notice; and

17 (2) to the extent applicable, the name of the permit
18 applicant, the type of permit applied for, and the location of each
19 proposed or existing site subject to the proposed permit.

20 (a-1) Rules adopted under this section [~~The rules~~] must
21 provide that a summary statement must be designed to inform the
22 reader of the subject matter of the notice without having to read
23 the entire text of the notice.

24 SECTION 10. Subchapter D, Chapter 5, Water Code, is amended
25 by adding Section 5.136 to read as follows:

26 Sec. 5.136. COMMUNITY OUTREACH. The commission shall
27 provide outreach and education to the public on participating in

1 the permitting process under the air, waste, and water programs
2 within the commission's jurisdiction.

3 SECTION 11. Subchapter E, Chapter 5, Water Code, is amended
4 by adding Section 5.1734 to read as follows:

5 Sec. 5.1734. ELECTRONIC POSTING OF PERMIT APPLICATIONS.

6 (a) The commission shall post on its website at the time a permit
7 application becomes administratively complete:

8 (1) the permit application and any associated
9 materials; and

10 (2) for a permit application under Subchapter D,
11 Chapter 11, any map accompanying the permit application.

12 (b) If a permit application is revised or amended after the
13 permit application has become administratively complete, the
14 commission shall post on its website the revised or amended permit
15 application.

16 (c) The commission may exempt any associated materials from
17 being posted on its website under Subsections (a) and (b) if the
18 commission determines that:

19 (1) posting the materials on the website would be
20 unduly burdensome; or

21 (2) the materials are too large to be posted on the
22 website.

23 (d) Notwithstanding any other law, the commission shall
24 require each applicant for a permit, permit amendment, or permit
25 renewal that requires notice be published to include in the notice
26 the address of the website where the public can access information
27 about the permit as described by Subsection (a).

1 (e) In implementing this section, the commission shall
2 consider and accommodate residents of each area affected by a
3 proposed permit, permit amendment, or permit renewal who may need
4 assistance accessing the application and associated materials
5 because of a lack of access to Internet services, particularly when
6 there is a heightened public interest or in response to public
7 comment.

8 SECTION 12. Chapter 5, Water Code, is amended by adding
9 Subchapter M-1 to read as follows:

10 SUBCHAPTER M-1. PERMITTING PROCEDURES GENERALLY

11 Sec. 5.581. DEFINITION. In this subchapter, "permit" means
12 a permit, approval, registration, or other form of authorization
13 required by law for a person to engage in an action.

14 Sec. 5.582. APPLICABILITY. This subchapter applies to
15 programs and permits arising under the air, waste, or water
16 programs within the commission's jurisdiction.

17 Sec. 5.583. ELECTRONIC PUBLICATION OF NOTICE. (a) The
18 commission shall publish notice of a permit application on the
19 commission's website and may provide additional electronic notice
20 through other means, including direct e-mail. Notice published
21 under this section is in addition to any other notice requirement.

22 (b) The commission shall consider and accommodate residents
23 of each area affected by a proposed permit, permit amendment, or
24 permit renewal who may need assistance accessing notice published
25 by electronic means because of a lack of access to Internet
26 services, particularly when there is a heightened public interest
27 or in response to public comment.

1 Sec. 5.584. VERIFICATION OF NOTICE BY NEWSPAPER. If an
2 applicant for a permit is required to publish notice in a newspaper,
3 the applicant shall provide to the commission a copy of the
4 published notice and an affidavit from the publisher certifying
5 that the notice was published and the publication meets all
6 applicable requirements, including newspaper circulation.

7 Sec. 5.585. SECURITY AT PUBLIC MEETING OR PUBLIC HEARING.
8 The commission may request that an applicant for a permit that is
9 the subject of a public meeting or public hearing provide uniformed
10 security at the meeting or hearing sufficient to provide for the
11 safety of all attendees and orderly conduct at the meeting or
12 hearing.

13 Sec. 5.586. NOTICE TO STATE SENATOR AND STATE
14 REPRESENTATIVE. (a) This section applies only to a permit
15 application for which public notice is required.

16 (b) The commission shall send notice of receipt of the
17 application for a permit to each state senator and state
18 representative who represent the area in which the facility or
19 activity to which the application relates is or will be located.

20 Sec. 5.587. TEMPORARY AND INDEFINITE PERMIT REPORTING. (a)
21 This section does not apply to a person who holds a temporary permit
22 or permit with an indefinite term that has a regular reporting
23 requirement.

24 (b) A person who holds a temporary permit or permit with an
25 indefinite term shall report to the commission annually whether the
26 activity subject to the permit is ongoing.

27 SECTION 13. Section [5.754](#), Water Code, is amended by

1 amending Subsection (c) and adding Subsection (c-1) to read as
2 follows:

3 (c) In classifying a person's compliance history, the
4 commission shall:

5 (1) determine whether a violation of an applicable
6 legal requirement is of major, moderate, or minor significance;

7 (2) establish criteria for classifying a repeat
8 violator, including:

9 (A) setting the number of major, moderate, and
10 minor violations needed to be classified as a repeat violator; and

11 (B) giving consideration to the size and
12 complexity of the site at which the violations occurred, and
13 limiting consideration to violations of the same nature and the
14 same environmental media that occurred in the preceding five years;
15 and

16 (3) consider:

17 (A) the significance of the violation and whether
18 the person is a repeat violator;

19 (B) the size and complexity of the site,
20 including whether the site is subject to Title V of the federal
21 Clean Air Act (42 U.S.C. Section 7661 et seq.); and

22 (C) the potential for a violation at the site
23 that is attributable to the nature and complexity of the site.

24 (c-1) The executive director may review, suspend, or
25 reclassify a person's compliance history in accordance with
26 commission rules if the executive director determines that exigent
27 circumstances exist.

1 SECTION 14. Section 7.052(c), Water Code, is amended to
2 read as follows:

3 (c) Except as provided by this subsection, the [The] amount
4 of the penalty for all other violations within the jurisdiction of
5 the commission to enforce may not exceed \$25,000 a day for each
6 violation. The amount of the penalty for such a violation may not
7 exceed \$40,000 a day if:

8 (1) the violation involves:

9 (A) an actual release of pollutants to the air,
10 water, or land that exceeds levels that are protective of human
11 health or environmental receptors; or

12 (B) an actual unauthorized diversion, taking, or
13 storage of state water or an unauthorized change in the flood
14 elevation of a stream that deprives others of water, severely
15 affects aquatic life, or results in a safety hazard, property
16 damage, or economic loss;

17 (2) the person previously committed a violation of the
18 same nature that resulted in the assessment of an administrative
19 penalty; and

20 (3) the commission determines the person could have
21 reasonably anticipated and avoided the violation.

22 SECTION 15. Subchapter C, Chapter 7, Water Code, is amended
23 by adding Section 7.0675 to read as follows:

24 Sec. 7.0675. ENFORCEMENT DIVERSION PROGRAM FOR SMALL
25 BUSINESSES AND LOCAL GOVERNMENTS. (a) In this section, "small
26 business" means a legal entity, including a corporation,
27 partnership, or sole proprietorship, that:

1 (1) is formed for the purpose of making a profit;

2 (2) is independently owned and operated; and

3 (3) has fewer than 100 employees.

4 (b) The commission shall establish an enforcement diversion
5 program for small businesses and local governments. The program
6 must include:

7 (1) resources developed for the small business
8 compliance assistance program under Section 5.135;

9 (2) compliance assistance training; and

10 (3) on-site technical assistance and training
11 performed by commission staff.

12 (c) Before the commission initiates an enforcement action
13 for a violation committed by a small business or local government,
14 the commission may enroll the business or government into the
15 enforcement diversion program.

16 (d) The commission may not enroll a small business or local
17 government into the enforcement diversion program if an enforcement
18 action against the business or government is required by federal
19 law.

20 (e) The commission may not initiate against a small business
21 or local government an enforcement action for a violation that
22 prompted enrollment in the enforcement diversion program after the
23 business or government has successfully completed the program.

24 (f) A small business or local government is not eligible to
25 enroll in the enforcement diversion program if the business or
26 government:

27 (1) committed a violation that:

1 (A) resulted in an imminent threat to public
2 health; or

3 (B) was a major violation, as classified under
4 Section 5.754; or

5 (2) was enrolled in the program in the two years
6 preceding the date of the violation.

7 SECTION 16. Subchapter B, Chapter 11, Water Code, is
8 amended by adding Section 11.02363 to read as follows:

9 Sec. 11.02363. PERIODIC REVIEW OF ENVIRONMENTAL FLOW
10 STANDARDS; STATEWIDE WORK PLAN. (a) Periodically, the advisory
11 group shall review the environmental flow standards for each river
12 basin and bay system adopted by the commission under Section
13 11.1471. In conducting a review of the environmental flow
14 standards, the advisory group shall:

15 (1) work with the science advisory committee and the
16 pertinent basin and bay area stakeholder committees and basin and
17 bay expert science teams in a manner similar to that provided by
18 Section 11.02362;

19 (2) take into consideration the work plans developed
20 under Section 11.02362(p);

21 (3) analyze previous environmental flow
22 recommendations and standards;

23 (4) prescribe future monitoring, studies, and
24 activities needed to better understand the environmental flow; and

25 (5) validate or refine:

26 (A) the environmental flow recommendations;

27 (B) the environmental flow standards adopted by

1 the commission; and

2 (C) strategies to achieve the environmental flow
3 standards.

4 (b) The advisory group shall develop a biennial statewide
5 work plan to prioritize and schedule the review of environmental
6 flow standards under Subsection (a). The work plan must establish:

7 (1) the methodology used to prioritize the review of
8 the environmental flow standards of each river basin and bay
9 system; and

10 (2) a timeline for the review of the environmental
11 flow standards of each river basin and bay system.

12 (c) The advisory group shall submit to the commission:

13 (1) any review conducted under Subsection (a),
14 including recommendations to the commission for use in adopting
15 rules under Section 11.1471; and

16 (2) the biennial work plan developed under Subsection
17 (b).

18 SECTION 17. Section 11.1471, Water Code, is amended by
19 amending Subsection (f) and adding Subsection (g) to read as
20 follows:

21 (f) An environmental flow standard or environmental flow
22 set-aside adopted under Subsection (a) may be altered by the
23 commission in a rulemaking process undertaken in accordance with a
24 schedule established by the commission. The commission shall
25 consider the review of environmental flow standards by the advisory
26 group under Section 11.02363(a) when altering an environmental flow
27 standard or environmental flow set-aside. In establishing a

1 schedule, the commission shall consider the work plan developed by
2 the advisory group under Section 11.02363(b) and the applicable
3 work plan approved by the advisory group under Section 11.02362(p).
4 The commission's schedule may not provide for the rulemaking
5 process to occur more frequently than once every 10 years unless the
6 work plans provide [~~plan provides~~] for a periodic review under
7 Sections 11.02363(a) and [~~Section~~] 11.02362(p) to occur more
8 frequently than once every 10 years. In that event, the commission
9 may provide for the rulemaking process to be undertaken in
10 conjunction with the periodic review if the commission determines
11 that schedule to be appropriate. A rulemaking process undertaken
12 under this subsection must provide for the participation of
13 stakeholders having interests in the particular river basin and bay
14 system for which the process is undertaken.

15 (g) The commission shall submit a biennial report to the
16 advisory group on the implementation and effectiveness of
17 environmental flow standards. The report must include:

18 (1) a description of progress made over the previous
19 biennium in implementing environmental flow standards, including
20 the status of any efforts to set aside unappropriated water for
21 environmental flow protection;

22 (2) input provided by the board and the Parks and
23 Wildlife Department on their:

24 (A) activities related to environmental flow
25 standards; and

26 (B) recommendations for the work plan developed
27 under Section 11.02363(b); and

1 Subsection (a) once a week for two consecutive weeks in a newspaper
2 regularly published or circulated in the county where the district
3 is proposed to be located not later than the 30th day before the
4 date on which the commission may act on the application. The
5 commission shall provide the notice to each state representative
6 and state senator who represents an area inside the proposed
7 district's boundaries.

8 SECTION 21. The following provisions are repealed:

- 9 (1) Section 11.0236(m), Water Code;
10 (2) Section 11.02361(g), Water Code; and
11 (3) Section 11.02362(s), Water Code.

12 SECTION 22. (a) Except as provided by Subsection (b) of
13 this section, Section 5.0535, Water Code, as amended by this Act,
14 applies to a member of the Texas Commission on Environmental
15 Quality appointed before, on, or after the effective date of this
16 Act.

17 (b) A member of the Texas Commission on Environmental
18 Quality who, before the effective date of this Act, completed the
19 training program required by Section 5.0535, Water Code, as that
20 law existed before the effective date of this Act, is only required
21 to complete additional training on the subjects added by this Act to
22 the training program required by Section 5.0535, Water Code. A
23 member described by this subsection may not vote, deliberate, or be
24 counted as a member in attendance at a meeting of the commission
25 held on or after December 1, 2023, until the member completes the
26 additional training.

27 SECTION 23. A permit holder subject to Section 5.587, Water

1 Code, as added by this Act, shall first report to the Texas
2 Commission on Environmental Quality the status of the permitted
3 activity not later than December 31, 2024.

4 SECTION 24. The change in law made by this Act to Section
5 7.052, Water Code, applies only to a violation that occurs on or
6 after the effective date of this Act. A violation that occurs
7 before the effective date of this Act is governed by the law in
8 effect on the date the violation occurred, and the former law is
9 continued in effect for that purpose.

10 SECTION 25. (a) The Texas Commission on Environmental
11 Quality shall submit to the environmental flows advisory group the
12 first biennial report on the implementation and effectiveness of
13 environmental flow standards under Section 11.1471(g), Water Code,
14 as added by this Act, not later than January 1, 2024.

15 (b) The environmental flows advisory group shall produce
16 and deliver to the commission the first biennial statewide work
17 plan developed under Section 11.02363, Water Code, as added by this
18 Act, not later than January 1, 2025.

19 SECTION 26. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1397 passed the Senate on April 17, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 23, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1397 passed the House, with amendment, on May 17, 2023, by the following vote: Yeas 142, Nays 2, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91.

Background and Summary of the Factual Basis for the Proposed Rules

During the 87th Texas Legislature (2021), House Bill (HB) 1410 passed and require amendments to 30 Texas Administrative Code (TAC) Chapter 293 to implement the enacted legislation.

During the 88th Texas Legislature (2023), HB 2815, HB 3437, Senate Bill (SB) 1397 and SB 938 passed and require amendments 30 TAC Chapter 293 to implement the enacted legislation.

This rulemaking reflects changes to Local Government Code (LGC), §375.022 enacted in HB 2815, which allows a Municipal Management District (MMD) to request that a succeeding board of directors be elected under LGC, §375.0645 instead of being appointed under LGC, §375.064.

This rulemaking reflects changes to LGC, §375.025(c), enacted in HB 2815, which require MMDs to complete the Creation Notice Actions and Requirements described by and pursuant to Texas Water Code (TWC), §49.011.

This rulemaking reflects changes to TWC, §49.011(a), enacted in HB 2815, that adds LGC, §375, to the list of TWC Chapters (36, 50, 51, 54, 55, 58, 65, and 66) which define the required documentation for an application for creation of a district to be submitted to the commission.

This rulemaking reflects changes to TWC, §54.030(b), enacted in HB 2815, that repealed amendments to TWC, §54.030(b) in HB 2914, 86th Legislature, Regular Session, 2019. Rule amendments remove outdated references to HB 2914 from 30 TAC §293.15(a)(1). Bill additions

revise application requirements for the conversion of a district in 30 TAC Chapter 293 enacted in HB 2815.

This rulemaking reflects changes to TWC, §49.316, enacted in HB 2815, that requires a district that's being divided to submit the final order to the commission and file the order with the real property records of the county.

This rulemaking reflects changes to TWC, §57.059, enacted in HB 2815, that stipulates that a director of a Levee Improvement district must: “(1) be at least 18 years old; (2) own land subject to taxation in the district or be a qualified voter in the district; (3) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058, from which the director is elected.”

This rulemaking reflects changes to TWC, §57.053(d), enacted in HB 2815, that requires that: “A director appointed to fill a vacancy must be a person qualified to serve as a director under Section 57.059, TWC.”

This rulemaking reflects changes to TWC, §49.4645(a), enacted in SB 938, which adds El Paso County to the list of counties that can issue bonds to be supported by ad valorem taxes for recreational facilities.

This rulemaking reflects changes to TWC, §49.4645(a-1), enacted in HB 1410 (87th Legislative Session) that allows a district to have a debt to valuation ratio for recreational facilities of 3% (up from 1%) provided the district meets certain criteria.

This rulemaking reflects changes to TWC, §49.18, enacted in HB 2815, which adds Austin, Brazos, Liberty, Grimes, Wharton and Walker Counties to the list of counties with a maximum projected tax rate limit of \$1.50. It also adds Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum projected tax rate limit of \$1.20.

This rulemaking reflects changes to TWC, §49.273(d) and (e), enacted in HB 3507, which requires a district to advertise and seek three competitive bids for projects with a value of \$150,000 or greater. Additionally, HB 3507 requires a district to solicit written competitive bids from at least three bidders for contracts over \$25,000 but not more than \$150,000. The district is not required to advertise for bids for contracts over \$25,000 but no more than \$150,000.

This rulemaking reflects changes to TWC, §49.011(b), enacted in SB 1397, that requires the commission to provide notice to each state representative and state senator who represents the area inside the proposed district.

This rulemaking reflects changes to TWC, §49.273(i), enacted in HB 3437, which allows a district to approve change orders that involve an increase or decrease of \$150,000 or less.

Section by Section Discussion

§293.11, Information Required to Accompany Applications for Creation of Districts

The commission proposes to amend §293.11(j)(1) by adding (G) allowing the succeeding board of directors of a MMD to be elected, rather than appointed, to implement changes made to LGC §375.0645 made by HB 2815.

§293.12, Creation Notice Actions and Requirements

The commission proposes to amend §293.12(a) to require the commission to notify the chief clerk that a creation application for a MMD is administratively complete. The commission proposes to delete §293.12(g) relating to hearing requirements for Municipal Management Districts to implement changes to LGC, Chapter 375, Municipal Management Districts made by HB 2815 and to reorder the subsequent subsections. The commission proposes to add new subsection (h) which requires the executive director to notify each state representative and state senator who represents an area inside the proposed district's boundaries that the petition has been filed to implement the statutory changes made by HB 2815.

293.15, Addition of Wastewater and/or Drainage Powers and Conversion of Districts into Municipal Utility Districts

The commission proposes to amend §293.15(b)(1) by removing outdated references to TWC, §54.030(b). TWC, §54.030(b) was repealed by HB 2815. The commission proposes to add new §293.15(b)(5) which requires the board of directors to hold a public hearing for approval to convert. The commission proposes to add new §293.15(b)(6) which requires the district to comply with notice actions for the public meeting on conversion of a district in accordance with TWC, §54.032. The commission proposes to delete existing language in 293.15(c) and §293.15(d) to remove outdated references to TWC, §54.030(b) that was repealed by HB 2815. Subsequent subsections were renumbered.

§293.32, Qualifications of Directors

The commission proposes to add new §293.32(a)(2) which requires the director of a levee improvement district created under TWC, Chapter 57: (A) to be at least 18 years old; own land subject to taxation in the district or be a qualified voter in the district; and if the director is

elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058 from which the director is elected. This addition is to implement the changes made to TWC, §57.059 by HB 2815. Subsequent paragraphs are renumbered.

§293.41, Approval of Projects and Issuance of Bonds

The commission proposes to amend §293.41(e) to add El Paso County to the list of counties that can authorize recreational debt supported by ad valorem taxes to implement changes made to TWC §49.4645 made by SB 938. The commission also proposes to amend §293.41(e)(5) to increase allowable recreational debt to valuation ratio from 1% to up to 3% if the district has a ratio of debt to certified assessed valuation of 10% or less, obtains an acceptable credit rating as defined in §293.47(b)(4) on its proposed bond issue, obtains a credit enhanced rating as defined in §293.57(b)(5) on its proposed bond issue, or has a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility to implement changes made to TWC, §49.4645 made by HB 1410, 87th Legislature.

§293.59, Economic Feasibility of Project

The commission proposes to amend §293.59(k)(3)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the list of counties with a maximum tax rate limit of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(3)(B) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum tax rate limit of \$1.20 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(4)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the

list of counties with combined no-growth maximum tax rate limit of \$2.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(4)(B) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with combined no-growth maximum tax rate limit of \$2.20 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(11)(C)(i) by adding Austin, Brazos, Grimes, Liberty, Walker, and Wharton Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(11)(C)(ii) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.00 to implement changes made to TWC, §49.181 by HB 2815.

§293.63, Contract Documents for Water District Projects

The commission proposes to amend §293.63(8) to raise the contract value that triggers the requirement to publish seeking at least three competitive bids from \$75,000 to \$150,000, as well as raise the contract value that triggers the requirement to solicit written competitive bids from over \$25,000 but not more than \$75,000 to over \$25,000 but not more than \$150,000 to implement changes made to TWC, §49.273 by HB 3507.

§293.81, Change Order

The commission proposes to amend §293.81(2) - (3) to revise the limit for change orders with no commission approval from \$50,000 to \$150,000 to conform with changes to TWC, §49.273 enacted in HB 3437.

§293.91, Reporting by Districts

The commission proposes to add new §293.91(a)(7) to require submittal of an order dividing a district within 30 days after the date of adoption of the order dividing a district. This addition implements changes to TWC, §49.316 and TWC, §54.728, enacted in HB 2815.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be consistency and compliance with state law, specifically HB 2815, HB 3437, SB 938, HB 3507, and SB 1397 from the 88th Regular Legislative Session (2023) and HB 1410 from the 87th Regular Legislative Session (2021). The proposed rulemaking is not anticipated to result in fiscal implications for individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease

the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC) §2001.0225 and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “Major environmental rule” as defined in the Texas Administrative Procedure Act. A “Major environmental rule” is a rule that is specifically intended to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

This rulemaking does not meet the statutory definition of a “Major environmental rule” because it is not the specific intent of the rule to protect the environment or reduce risks to human health from environmental exposure. The primary purpose of the proposed rulemaking is to implement legislative changes enacted by: HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows MMDs to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into, dividing, and consolidating Municipal Utility Districts (MUDs); and changes the eligibility requirements to be a district director.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties that may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The proposed rules would substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

In addition, the rulemaking does not meet the statutory definition of a “Major environmental rule” because the proposed rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The cost of complying with the proposed rules is

not expected to be significant with respect to the economy.

Furthermore, the proposed rulemaking is not subject to TGC, §2001.0225 because it does not meet any of the four applicability requirements listed in TCG, §2001.0225(a). There are no federal standards governing the areas of construction finances, director qualifications, recreational facility bonds, and notice to state legislators, with respect to water districts. Second, the proposed rulemaking does not exceed an express requirement of state law. Third, the proposed rulemaking does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program. Finally, the proposed rulemaking will be adopted pursuant to the commission's specific authority in TWC, §12.081, which allows the commission to issue rules necessary to supervise districts and authorities. Therefore, the rules are not adopted solely under the commission's general powers.

The commission invites public comment of the draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section to this preamble.

Takings Impact Assessment

The commission evaluated the proposed rules and performed an analysis of whether the proposed rules constitute a taking under TGC, Chapter 2007. The primary purpose of the proposed rulemaking is to implement legislative changes enacted by HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows Municipal Management Districts (MMDs) to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into, dividing, and consolidating Municipal Utility Districts (MUDs); and changes the eligibility requirements to be a district director.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties that may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The proposed rules would substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. The proposed rules do not affect a landowner's rights in private real property because this rulemaking does not relate to or have any impact on an owner's rights to property. This proposed rulemaking will primarily affect districts, especially in the areas of creations/conversions, projects, and authority; this would not be an effect on private real property. Therefore, the adopted rulemaking would not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on January 29, 2026, at 2:00 pm in Building E Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior

to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by January 27, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on January 28, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDMwZTdmYmMtODI5OS00ZThjLTg1ZjktNTBhMGZmZGEyZTk4%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%7d

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Corey Bowling, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at:

<https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-009-293-OW. The comment period closes at 11:59 p.m. on February 3,

2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Jacob Houston, Districts Section, (512) 239-3582, Jacob.Houston@tceq.texas.gov.

SUBCHAPTER B: CREATION OF WATER DISTRICTS

§§293.11, 293.12, 293.15

Statutory Authority

This rulemaking is proposed under Local Government Code, §§375.022, 375.025, and 375.0645 and Texas Water Code, §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a)-(f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a)-(l) in HB 2815; TWC, §49.4645(d) and (a-1) in SB 938; TWC, §49.181(f)(?) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) in HB 2815; and TWC, §57.059(a) in HB 2815.

§293.11. Information Required to Accompany Applications for Creation of Districts.

(a) Creation applications for all types of districts, excluding groundwater conservation districts, shall contain the following:

(1) \$700 nonrefundable application fee;

(2) if a proposed district's purpose is to supply fresh water for domestic or commercial use or to provide wastewater services, roadways, or drainage, a certified copy of the action of the governing body of any municipality in whose extraterritorial jurisdiction the proposed district is located, consenting to the creation of the proposed district, under Texas Local Government Code, §42.042. If the governing body of any such municipality fails or

refuses to grant consent, the petitioners must show that the provisions of Texas Local Government Code, §42.042, have been followed;

(3) if city consent was obtained under paragraph (2) of this subsection, provide the following:

(A) evidence that the application conforms substantially to the city consent; provided, however, that nothing in this chapter shall prevent the commission from creating a district with less land than included in the city consent; and

(B) evidence that the city consent does not place any conditions or restrictions on a district other than those permitted by Texas Water Code (TWC), §54.016(e) and (i);

(4) a statement by the appropriate secretary or clerk that a copy of the petition for creation of the proposed district was received by any city in whose corporate limits any part of the proposed district is located;

(5) evidence of submitting a creation petition and report to the appropriate commission regional office;

(6) if substantial development is proposed, a market study and a developer's financial statement;

(7) if the petitioner is a corporation, trust, partnership, or joint venture, a certificate of corporate authorization to sign the petition, a certificate of the trustee's authorization to sign the petition, a copy of the partnership agreement or a copy of the joint venture agreement, as appropriate, to evidence that the person signing the petition is authorized to sign the petition on behalf of the corporation, trust, partnership, or joint venture;

(8) a vicinity map;

(9) unless waived by the executive director, for districts where substantial development is proposed, a certification by the petitioning landowners that those lienholders who signed the petition or a separate document consenting to the petition, or who were notified by certified mail, are the only persons holding liens on the land described in the petition;

(10) if the petitioner anticipates recreational facilities being an intended purpose, a detailed summary of the proposed recreational facility projects, projects' estimated costs, and proposed financing methods for the projects as part of the preliminary engineering report; and

(11) other related information as required by the executive director.

(b) Creation application requirements and procedures for TWC, Chapter 36, Groundwater Conservation Districts, are provided in Subchapter C of this chapter (relating to Special Requirements for Groundwater Conservation Districts).

(c) Creation applications for TWC, Chapter 51, Water Control and Improvement Districts, within two or more counties shall contain items listed in subsection (a) of this section and the following:

(1) a petition as required by TWC, §51.013, requesting creation signed by the majority of persons holding title to land representing a total value of more than 50% of value of all land in the proposed district as indicated by tax rolls of the central appraisal district, or if there are more than 50 persons holding title to land in the proposed district, the petition can be signed by 50 of them. The petition shall include the following:

(A) name of district;

(B) area and boundaries of district;

(C) constitutional authority;

(D) purpose(s) of district;

(E) statement of the general nature of work and necessity and feasibility of project with reasonable detail; and

(F) statement of estimated cost of project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries, metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(5) a preliminary engineering report including the following as applicable:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, will benefit all of the land and residents to be included in the district, and will further the public welfare;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §51.072;

(8) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title (relating to Application Requirements for Fire Department Plan Approval), except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(9) other information as required by the executive director.

(d) Creation applications for TWC, Chapter 54, Municipal Utility Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §54.014 and §54.015, signed by persons holding title to land representing a total value of more than 50% of the value of all land in the proposed district as indicated by tax rolls of the central appraisal district. The petition shall include the following:

(A) name of district;

(B) area and boundaries of district described by metes and bounds or lot and block number, if there is a recorded map or plat and survey of the area;

(C) necessity for the work;

(D) statement of the general nature of work proposed; and

(E) statement of estimated cost of project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(5) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) a certified copy of the action of the governing body of any municipality in whose corporate limits or extraterritorial jurisdiction that the proposed district is located, consenting to the creation of the proposed district under TWC, §54.016. For districts to be located in the extraterritorial jurisdiction of any municipality, if the governing body of any such municipality fails or refuses to grant consent, the petitioners must show that the provisions of TWC, §54.016 have been followed;

(8) for districts proposed to be created within the corporate boundaries of a municipality, evidence that the city will rebate to the district an equitable portion of city taxes to be derived from the residents of the area proposed to be included in the district if such taxes are used by the city to finance elsewhere in the city services of the type the district proposes to provide. If like services are not to be provided, then an agreement regarding a rebate of city taxes is not necessary. Nothing in this subsection is intended to restrict the contracting authorization provided in Texas Local Government Code, §402.014;

(9) affidavits by those persons desiring appointment by the commission as temporary directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary directors, in accordance with TWC, §§49.052, 54.022, and 54.102;

(10) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee;

(11) if the petition within the application includes a request for road powers, information meeting the requirements of §293.202(b) of this title (relating to Application Requirements for Commission Approval); and

(12) other data and information as the executive director may require.

(e) Creation applications for TWC, Chapter 55, Water Improvement Districts, within two or more counties shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §55.040, signed by persons holding title to more than 50% of all land in the proposed district as indicated by county tax rolls, or by 50 qualified property taxpaying electors. The petition shall include the following:

(A) name of district; and

(B) area and boundaries of district;

(2) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(3) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(4) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is practicable, would be a public utility, and would serve a beneficial purpose;

(5) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(6) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(7) other data and information as the executive director may require.

(f) Creation applications for TWC, Chapter 58, Irrigation Districts, within two or more counties, shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §58.013 and §58.014, signed by persons holding title to land representing a total value of more than 50% of the value of all land in the proposed district as indicated by county tax rolls, or if there are more than 50 persons holding title to land in the proposed district, the petition can be signed by 50 of them. The petition shall include the following:

(A) name of district;

(B) area and boundaries;

(C) provision of the Texas Constitution under which district will be organized;

(D) purpose(s) of district;

(E) statement of the general nature of the work to be done and the necessity, feasibility, and utility of the project, with reasonable detail; and

(F) statement of the estimated costs of the project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing as applicable the location of existing facilities including highways, roads, and other improvements, together with the location of proposed irrigation facilities, general drainage patterns, principal drainage ditches and structures, sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project;

(5) a preliminary engineering report including the following as applicable:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan, including a table showing irrigable and non-irrigable acreage;

(C) copies of any agreements, meeting minutes, contracts, or permits executed or in draft form with other entities including, but not limited to, federal, state, or local entities or governments or persons;

(D) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(E) proposed budget including projected tax rate and/or fee schedule and rates;

(F) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(G) an evaluation of the effect the district and its systems will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(H) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(I) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land and residents to be included in the district and will further the public welfare;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §58.072; and

(8) other data as the executive director may require.

(g) Creation applications for TWC, Chapter 59, Regional Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a petition, as required by TWC, §59.003, signed by the owner or owners of 2,000 contiguous acres or more; or by the county commissioners court of one, or more than

one, county; or by any city whose boundaries or extraterritorial jurisdiction the proposed district lies within; or by 20% of the municipal districts to be included in the district. The petition shall contain:

(A) a description of the boundaries by metes and bounds or lot and block number, if there is a recorded map or plat and survey of the area;

(B) a statement of the general work, and necessity of the work;

(C) estimated costs of the work;

(D) name of the petitioner(s);

(E) name of the proposed district; and

(F) if submitted by at least 20% of the municipal districts to be included in the regional district, such petition shall also include:

(i) a description of the territory to be included in the proposed district; and

(ii) endorsing resolutions from all municipal districts to be included;

(2) evidence that a copy of the petition was filed with the city clerk in each city where the proposed district's boundaries cover in whole or part;

(3) if land in the corporate limits or extraterritorial jurisdiction of a city is proposed, documentation of city consent or documentation of having followed the process outlined in TWC, §59.006;

(4) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates; and

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(5) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, as required by TWC, §49.052 and §59.021;

(6) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(7) other information as the executive director may require.

(h) Creation applications for TWC, Chapter 65, Special Utility Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a certified copy of the resolution requesting creation, as required by TWC, §65.014 and §65.015, signed by the president and secretary of the board of directors of the water supply or sewer service corporation, and stating that the corporation, acting through its board of directors, has found that it is necessary and desirable for the corporation to be converted into a district. The resolution shall include the following:

(A) a description of the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, or by any other commonly recognized means in a certificate attached to the resolution executed by a licensed engineer;

(B) a statement regarding the general nature of the services presently performed and proposed to be provided, and the necessity for the services;

(C) name of the district;

(D) the names of not less than five and not more than 11 qualified persons to serve as the initial board;

(E) a request specifying each purpose for which the proposed district is being created; and

(F) if the proposed district also seeks approval of an impact fee, a request for approval of an impact fee and the amount of the requested fee;

(2) the legal description accompanying the resolution requesting conversion of a water supply or sewer service corporation, as defined in TWC, §65.001(10), to a special utility district that conforms to the legal description of the service area of the corporation as such service area appears in the certificate of public convenience and necessity held by the corporation. Any area of the corporation that overlaps another entity's certificate of

convenience and necessity must be excluded unless the other entity consents in writing to the inclusion of its dually certified area in the district;

(3) a plat showing boundaries of the proposed district as described in the petition;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water or wastewater facilities;

(5) a preliminary engineering report including the following information unless previously provided to the commission:

(A) a description of existing area, conditions, topography, and any proposed improvements;

(B) existing and projected populations;

(C) for proposed system expansion:

(i) tentative itemized cost estimates of any proposed capital improvements and itemized cost summary for any anticipated bond issue requirement; and

(ii) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(D) water and wastewater rates;

(E) projected water and wastewater rates;

(F) an evaluation of the effect the district and its system and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality; and

(G) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(6) a certified copy of a certificate of convenience and necessity held by the water supply or sewer service corporation applying for conversion to a special utility district;

(7) a certified copy of the most recent financial report prepared by the water supply or sewer service corporation;

(8) if requesting approval of an existing capital recovery fee or impact fee, supporting calculations and required documentation regarding such fee;

(9) certified copy of resolution and an order canvassing election results, adopted by the water supply or sewer service corporation, which shows:

(A) an affirmative vote of a majority of the membership to authorize conversion to a special utility district operating under TWC, Chapter 65; and

(B) a vote by the membership in accordance with the requirements of TWC, Chapter 67, and the Texas Non-Profit Corporation Act, Texas Civil Statutes, Articles 1396-1.01 to 1396-11.01, to dissolve the water supply or sewer service corporation at such time as creation of the special utility district is approved by the commission and convey all the assets and debts of the corporation to the special utility district upon dissolution;

(10) affidavits by those persons named in the resolution for appointment by the commission as initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §65.102, where applicable;

(11) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(12) other information as the executive director requires.

(i) Creation applications for TWC, Chapter 66, Stormwater Control Districts, shall contain items listed in subsection (a) or this section and the following:

(1) a petition as required by TWC, §§66.014 - 66.016, requesting creation of a storm water control district signed by at least 50 persons who reside within the boundaries of the proposed district or signed by a majority of the members of the county commissioners court in each county or counties in which the district is proposed. The petition shall include the following:

(A) a boundary description by metes and bounds or lot and block number if there is a recorded map or plat and survey;

(B) a statement of the general nature of the work proposed and an estimated cost of the work proposed; and

(C) the proposed name of the district;

(2) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(3) a preliminary engineering report including:

(A) a description of the existing area, conditions, topography, and proposed improvements;

(B) preliminary itemized cost estimate for the proposed improvements and associated plans for financing such improvements;

(C) a listing of other entities capable of providing same or similar services and reasons why those are unable to provide such services;

(D) copies of any agreements, meeting minutes, contracts, or permits executed or in draft form with other entities including, but not limited to, federal, state, or local entities or governments or persons;

(E) an evaluation of the effect the district and its projects will have on the following:

(i) land elevations;

(ii) subsidence/groundwater level and recharge;

(iii) natural run-off rates and drainage; and

(iv) water quality;

(F) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(G) complete justification for creation of the district supported by evidence that the project is feasible, practical, necessary, and will benefit all the land to be included in the district;

(4) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §66.102, where applicable; and

(5) other data as the executive director may require.

(j) Creation applications for Texas Local Government Code, Chapter 375, Municipal Management Districts in General, shall contain the items listed in subsection (a) of this section and the following:

(1) a petition requesting creation signed by owners of a majority of the assessed value of real property in the proposed district that would be subject to assessment by the district. The petition shall include the following:

(A) a boundary description by metes and bounds, by verifiable landmarks, including a road, creek, or railroad line, or by lot and block number if there is a recorded map or plat and survey;

(B) purpose(s) for which district is being created;

(C) general nature of the work, projects or services proposed to be provided, the necessity for those services, and an estimate of the costs associated with such;

(D) name of proposed district, which must be generally descriptive of the location of the district, followed by "Management District" or "Improvement District;"

(E) list of proposed initial directors and experience and term of each;

[and]

(F) a resolution of municipality in support of creation; and [.]

(G) if applicable, a request that the succeeding board of directors be elected in accordance with Texas Local Government Code §375.0645, instead of being appointed in accordance with Texas Local Government Code §375.064.

(2) a preliminary plan or report providing sufficient details on the purpose and projects of district as allowed in Texas Local Government Code, Chapter 375, including budget, statement of expenses, revenues, and sources of such revenues;

(3) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(4) affidavits by those persons desiring appointment by the commission as initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for initial directors, in accordance with Texas Local Government Code, §375.063; and

(5) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee.

§293.12. Creation Notice Actions and Requirements.

(a) On receipt by the executive director of all required documentation associated with an application for creation of a district by the commission in accordance with Texas Water Code (TWC), Chapter 51, multi-county Water Control and Improvement Districts or single-county Water Control and Improvement Districts requesting additional powers; Chapter 54, Municipal Utility Districts; Chapter 55, Water Improvement Districts; Chapter 58, multi-county Irrigation Districts; Chapter 59, Regional Districts; Chapter 65, Special Utility Districts; [and] Chapter 66, Stormwater Control Districts[,]; and Texas Local Government Code, Chapter 375, Municipal Management Districts, the executive director shall notify the chief clerk that the application is administratively complete.

(b) For those applications described in subsection (a) of this section, the chief clerk shall send a copy of a notice to the applicant indicating that an application has been received and notifying interested persons of the procedures for requesting a public hearing. The applicant shall cause the notice to be published as follows:

(1) notice must be published once a week for two consecutive weeks in a newspaper regularly published or circulated in the county or counties where the district is proposed to be located with the last publication not later than the 30th day before the date on which the commission may act on the application; and

(2) not later than the 30th day before the date on which the commission may act on the application, the notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.

(c) For those applications described in subsection (a) of this section, the commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under this section. If the commission determines that a public hearing is necessary, the chief clerk shall advise all parties of the time and place of the hearing. The commission is not required to provide public notice of a hearing under this subsection.

(d) For a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, which includes transfer of the certificate of public convenience and necessity, the applicant shall also, unless waived by executive director, mail copies of the notice to customers of the water supply corporation and other affected parties at least 120 days prior to approval. Such notice shall include the following:

- (1) name and business address of the district;
- (2) a description of the service area involved;
- (3) the anticipated effect of the conversion on the operation or the rates and services provided to customers; and
- (4) a statement that if a hearing is granted, persons may attend the hearing and participate in the process.

(e) If a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, contains a request for approval of an impact fee, the applicant shall comply with the notice provisions of §293.173 of this title (relating to Impact Fee Notice Actions and Requirements).

(f) Regardless of whether a public hearing is held or not, for an application for creation of a Special Utility District in accordance with TWC, Chapter 65, the commission may only consider a purpose for which the district is being created that is specified in the resolution.

[(g) The hearing action and notice requirements for Local Government Code, Chapter 375, Municipal Management Districts In General, are as follows.]

[(1) The chief clerk shall send a copy of the notice of hearing to all counties in which the proposed district is located and all municipalities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice of creation of all districts in their county or counties. The chief clerk shall prepare a certificate indicating that notice was properly mailed to any such counties and/or municipalities.]

[(2) The chief clerk shall send a copy of the notice of hearing to the petitioners, or their agents, who shall:]

[(A) cause the notice to be published in a newspaper with general circulation in the municipality in which the proposed district is located once a week for two

consecutive weeks with the first publication being at least 31 days prior to the date of the commission hearing;]

[B) send the notice of the hearing by certified mail, return receipt requested, to all property owners within the district at least 30 days before the hearing.]

(g) [(h)] Upon receipt of a petition to create a district under TWC, Chapter 54, all of which is to be located outside the corporate limits of a municipality, the executive director shall notify the commissioners court of any county in which the proposed district is to be located that the petition has been filed; [.]

(h) Upon receipt of a petition described in subsections (a) and (d), the executive director shall notify each state representative and state senator who represents an area inside the proposed district's boundaries that the petition has been filed.

§293.15. Addition of Wastewater and/or Drainage Powers and Conversion of District into Municipal Utility Districts.

(a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district or any other conservation and reclamation district or any special utility district created under the Texas Constitution, Article XVI, §59, may be converted into a municipal utility district operating under the Texas Water Code (TWC), Chapter 54.

(b) The application for the conversion of a district shall be accompanied by the following:

(1) a copy of the resolution adopted by the board of directors in accordance with TWC, [§54.030(b) as amended by House Bill (HB) 2914, 86th Texas Legislature, 2019 and] §54.030(d) [. The resolution required by this paragraph may be submitted after the hearing required by TWC, §54.030(b) as amended by HB 2590, 86th Texas Legislature, 2019];

(2) a \$700 application fee;

(3) unless waived by the executive director, a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(4) unless waived by the executive director, a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements, if any and itemized cost summary for anticipated bond issue requirements;

(F) projected tax rate and water and wastewater rates; and

(G) total tax assessments on all land within the district; and

(5) [8] other data and information as the executive director may require.

[(1) Notice of the conversion application filed with the commission shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located. The notice shall be published once a week for two consecutive weeks. The notice shall:]

[(A) set out the resolution provided in subsection (b)(1) of this section in full; and]

[(B) notify all interested persons how they may offer comments to the commission for or against the proposal contained in the resolution.]

[(2) Notice of the hearing to be conducted by the district's board as required by TWC, §54.030(b) as amended by HB 2590, shall be given by publishing notice of the hearing in a newspaper with general circulation in the district. The notice shall be published once a week for two consecutive weeks. The notice shall:]

[(A) set out the resolution adopted by the district in full; and]

[(B) notify all interested persons how they may offer comments to the district's board for or against the proposal contained in the resolution.]

[(3) The district shall file its resolution requesting conversion with the city secretary or clerk of each city, in whose corporate limits or extraterritorial jurisdiction any part of the district is located, concurrently with submitting its application for conversion to the commission.]

[(d) After the hearing required by TWC, §54.030(b) as amended by HB 2590, the resolution required by TWC, §54.030(d) shall be filed with the commission and mailed to each state senator and representative who represents the area in which the district is located.]

(c) [e] A special utility district formed pursuant to the TWC, Chapter 65, which applies for conversion to a district having taxing authority that provides water, wastewater, or other public utility services, must comply with the requirements of Texas Local Government Code, §42.042.

(d) [(f)] Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and reclamation district or any special utility district created under the Texas Constitution, Article XVI, §59, may obtain additional wastewater and/or drainage powers.

(e) [(g)] The application for the addition of wastewater and/or drainage powers shall be accompanied by the following:

(1) a certified copy of the resolution adopted by the board of directors requesting the commission to hold a hearing on the question of the addition of wastewater and/or drainage powers for the district;

(2) a \$700 application fee;

(3) unless waived by the executive director, a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(4) unless waived by the executive director, a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements, if any and itemized cost summary for anticipated bond issue requirements;

(F) projected tax rate and water and wastewater rates; and

(G) total tax assessments on all land within the district; and

(5) other data and information as the executive director may require.

(f) [(h)] Prior to the hearing for the addition of wastewater and/or drainage powers, the following requirements shall be met with evidence of such compliance filed with the chief clerk at or prior to the hearing:

(1) Notice of the hearing in a form issued by the chief clerk shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located. The notice shall be published once a week for two consecutive weeks with

the first publication to be made not less than 14 days before the time set for the hearing. The notice shall:

(A) state the time and place of the hearing;

(B) set out the resolution adopted by the district in full; and

(C) notify all interested persons to appear and offer testimony for or against the proposed contained in the resolution.

(2) The district shall file its resolution requesting additional powers with the city secretary or clerk of each city, in whose corporate limits or extraterritorial jurisdiction any part of the district is located, concurrently with submitting its application to the commission.

SUBCHAPTER D: APPOINTMENT OF DIRECTORS

§293.32

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(d) and (a)(1) in SB 938; TWC, §49.181(f)(1) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) HB

2815; and TWC, §57.059(a) HB 2815.

§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 levee improvement district created under TWC, Chapter 57

must:

(A) be at least 18 years old;

(B) own land subject to taxation in the district or be a qualified voter in the district; and

(C) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058 from which the director is elected.

(3) [(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.

(4) [(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.

(5) [(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.

(6) [(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).

(7) [(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.

(8) [(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.

(9) [(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).)

SUBCHAPTER E: ISSUANCE OF BONDS

§293.41, §293.59

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(d) and (a)(1) in SB 938; TWC, §49.181(f)(1) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) in HB2815; and TWC, §57.059(a) in HB 2815.

§293.41. Approval of Projects and Issuance of Bonds.

(a) Bonds, as referred to in this subchapter, include any bonds authorized to be issued by the Texas Water Code (TWC) or special statute, and are represented by an instrument issued in bearer or registered form. This section does not apply to:

(1) refunding bonds, if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;

(2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;

(3) bonds issued to and approved by the Farmers Home Administration, the United States Department of Agriculture, the North American Development Bank, or the Texas Water Development Board, or successor agencies;

(4) refunding bonds issued to refund bonds described by paragraph (3) of this subsection;

(5) bonds issued by a public utility agency created under Local Government Code, Chapter 572, any of the public entities participating in which are districts, if at least one of those districts is a district described by subsection (d)(1)(E) of this section; or

(6) bonds issued by a district to finance a project for which the commission has not adopted rules requiring review and approval.

(b) This subchapter does apply to revenue notes to the extent described in §293.80(d) of this title (relating to Revenue Notes) and contract tax obligations to the extent described in §293.89 of this title (relating to Contract Tax Obligations).

(c) The commission has the statutory responsibility to approve projects relating to the issuance and sale of bonds for districts as defined in TWC, §49.001(1), and other districts where specifically required by law.

(d) This subchapter does not apply to:

(1) a district if:

(A) the boundaries include one entire county;

(B) the district was created by a special act of the legislature; and

(i) the district is located entirely within one county and entirely within one or more home-rule municipalities;

(ii) the total taxable value of the real property and improvements to the real property, zoned by one or more home-rule municipalities for residential purposes and located within the district, does not exceed 25% of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(iii) the district was not required by law to obtain commission approval of its bonds before September 1, 1995;

(C) the district is a special water authority as defined by TWC, §49.001(8);

(D) the district is governed by a board of directors appointed in whole or part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, wastewater, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function; or

(E) the district:

(i) is a municipal utility district operating under TWC, Chapter 54, that includes territory in only two counties;

(ii) has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities; and

(iii) has at least 5,000 active water connections; or

(F) the district:

(i) is a conservation and reclamation district created under the Texas Constitution, Article 16, §59, that includes territory in at least three counties; and

(ii) has the rights, privileges, and functions applicable to a river authority under TWC, Chapter 30; or

(2) a public utility agency created under Local Government Code, Chapter 572, any of the public entities participating in which are districts, if at least one of those districts is a district described by paragraph (1)(E) of this subsection.

(e) A district located within Bastrop, Bexar, Brazoria, El Paso, Fort Bend, Galveston, Harris, Montgomery (except for a district all or part of which is located in Montgomery County

and includes land within a planned community of at least 15,000 acres, of which a majority of the developed acreage is subject to restrictive covenants containing ad valorem assessments), Travis, Waller, or Williamson Counties may submit bond applications, which include recreational facilities that are supported by taxes, in accordance with TWC, §49.4645.

(1) Bond applications submitted under this subsection must include a copy of a district's park plan as required under TWC, §49.4645(b), in addition to other application requirements under §293.43 of this title (relating to Application Requirements). The park plan is to be signed and sealed by a registered landscape architect, a licensed professional engineer, or any other design professional allowed by law to engage in landscape architecture.

(2) Bond applications submitted under this subsection may include:

(A) forests, greenbelts, open spaces, and native habitat;

(B) sidewalks, trails, paths, boardwalks, and fitness trail equipment, subject to the following restrictions:

(i) the sidewalks, trails, paths, boardwalks, and fitness trail equipment unrelated to golf courses;

(ii) the sidewalks, trails, paths, boardwalks, and fitness trail equipment located outside of the right-of-way required by applicable government agencies for streets, unless a district has completed and financed at least 90% of its projected water, wastewater, and drainage facilities to serve residential development within the district; and

(iii) if a district has completed and financed at least 90% of its projected water, wastewater, and drainage facilities to serve residential development within the district prior to the annexation of land, the location restriction in clause (ii) of this subparagraph only applies to annexed land;

(C) pedestrian bridges and underpasses that are less than 200 feet in length and not related to golf courses;

(D) outdoor ballfields, including, but not limited to, soccer, football, baseball, softball, and lacrosse, outdoor skate/roller blade facilities, associated scoreboards, and bleachers designed for less than 500 people per field or per skate/roller blade facility;

(E) parks (outdoor playground facilities and associated ground surface material, picnic tables, benches, barbeque grills, fire pits, fireplaces, trash receptacles, drinking water fountains, open-air pavilions/gazebos, open-air amphitheaters/assembly facilities designed for less than 500 people, open-air shade structures, restrooms and changing rooms, concession stands, water playgrounds, recreational equipment storage facilities, and emergency call boxes);

(F) amenity lakes, and associated water features, docks, piers, overlooks, and non-motorized boat launches subject to §293.44(a)(24) of this title (relating to Special Considerations);

(G) amenity/recreation centers, outdoor tennis courts, and outdoor basketball courts if the district has funded water, wastewater, and drainage facilities to serve at least 90% of the residential development within the district;

(H) fences no higher than eight feet that are located within public right-of-way or district sites/easements and are along streets if the district has funded water, wastewater, and drainage facilities to serve at least 90% of the residential development within the district; and

(I) landscaping (including, but not limited to, trees, shrubs, and berms) and associated irrigation, fences, information signs/kiosks, lighting (except street lighting), and parking related to items listed in subparagraphs (A) through (G) of this paragraph.

(3) Bond applications submitted under this subsection shall not include:

(A) indoor or outdoor swimming pools, pool decks, and associated equipment or storage facilities;

(B) golf courses, clubhouses, and related structures or facilities;

(C) air conditioned buildings, gymnasiums, spas, fitness centers, and habitable structures, except as allowed in paragraph (2) of this subsection;

(D) sound barrier walls;

(E) retaining walls used for roadway purposes;

(F) fences, such as for subdivisions and lots, which are not related to district facilities, except as allowed in paragraph (2) of this subsection;

(G) signs and monuments, such as for subdivisions and developments, which are not related to district facilities; and

(H) street lighting, except for a district operating under TWC, Chapter 54, pursuant to TWC, §54.236, as amended.

(4) A district's outstanding principal debt (bonds, notes, and other obligations), supported by ad valorem taxes, for recreational facilities may not exceed 1% of the taxable value of property in the district, as supported by a certificate from the central appraisal district, at the time of issuance of the debt or exceed the estimated cost provided in the park plan required under TWC, §49.4645(b), whichever is smaller. If supported by contract taxes under TWC, §49.108, the outstanding principal debt (bonds, notes, and other obligations) may not exceed an amount equal to 1% of the value of the taxable property in the district or districts making payments under the contract. An estimate of the value provided by the central appraisal district may be used to establish the value of the taxable property in the district or districts.

(5) A district's outstanding bonds, notes, and other obligations, supported by ad valorem taxes, for recreational facilities may exceed 1% but not 3% of the taxable value of

property in the district or, if supported by contract taxes under TWC, §49.108, the taxable value of property in the districts making payments under the contract, if the district;

(A) has a ratio of debt to certified assessed valuation of 10% or less;

(B) obtains an acceptable credit rating as defined in §293.47(b)(4) of this title on its proposed bond issue;

(C) obtains a credit enhanced rating as defined in §293.47(b)(5) of this title on its proposed bond issue; or

(D) has a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility, including a contract under TWC, §49.108.

(6) [(5)] A district may submit a bond application that proposes to fund recreational facilities only after or at the same time a district has funded water, wastewater, and/or drainage facilities, depending on a district's authorized functions, to serve the section that includes the recreational facilities or to serve areas along roads that are either adjacent to the recreational facilities or are necessary to provide access to the recreational facilities.

(7) [(6)] Plans and specifications for recreational facilities must be signed and sealed by a registered landscape architect, a licensed professional engineer, or any other design professional allowed by law to engage in landscape architecture.

§293.59. Economic Feasibility of Project.

(a) In addition to determining the engineering feasibility of a project, the commission shall also determine the economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue. The staff of the commission shall use the following sections in making economic feasibility analysis. In its written recommendations to the commission, which analyze the particular application, the staff shall always address the economic feasibility.

(b) Economic feasibility is the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bond indebtedness while maintaining competitive utility rates. Utility rates that do not exceed the rates of the largest city in the geographic area in which the district is located are conclusively deemed to be competitive. Economic feasibility is influenced by many factors and varies widely depending on economic conditions, the real estate market, the number of competing projects, and geographic location.

(c) Projected debt service tax rate is the tax rate required to meet the projected annual debt service requirement using projected assessed valuations and an appropriate tax collection rate. The projected annual debt service requirement shall include the previous and proposed debt. The projected debt service tax rate for any bond issue shall be shown in the cash flow table as a level or decreasing tax rate.

(d) No-growth debt service tax rate is the tax rate required to meet projected annual debt service requirements using the current assessed value and a 100% tax collection rate. The current value is determined by either:

(1) the most recent certificate of assessed valuation from the central appraisal district; or

(2) a certificate of estimated assessed valuation from the central appraisal district. Projected annual debt service requirements shall include the previous and proposed debt. The no-growth debt service tax rate for any bond issue shall be shown on the cash flow table as a level or decreasing tax rate.

(e) Combined no-growth tax rate is the sum of the following:

(1) no-growth debt service tax rate of the district;

(2) projected no-growth debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, or recreational facilities that are smaller in size than a county, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct. (In other words, for road districts or road utility districts that are as large as one county commissioner's precinct, the road district tax is not counted.);

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payments.

(f) Combined projected tax rate is the sum of the following:

(1) projected debt service tax rate of the district;

(2) projected debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, recreational facilities, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct;

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payment.

(g) A surcharge is a flat charge in addition to rates imposed on residents receiving water and/or wastewater service from resources of a city or other entity and supplied through district facilities. Surcharge revenues are placed in the district's debt service fund and are intended to be used to meet the debt service requirement on the district's bonds.

(h) For districts collecting surcharge revenues, the equivalent surcharge tax rate shall be calculated as follows.

(1) For residential development with similar house prices:

Figure 1: 30 TAC §293.59 (h)(1) (No change.)

$$\text{equivalent tax rate} = \frac{\text{monthly surcharge} \times 12 \times 100}{\text{average house price}}$$

(2) For mixed-use development and diverse house prices:

Figure 2: 30 TAC §293.59 (h)(2) (No change.)

$$\text{equivalent tax rate} = \frac{\text{total annual surcharge revenues at projected build out} \times 100}{\text{total assessed value of district at buildout}}$$

(3) For purposes of this calculation, no adjustments shall be made for projected collection rate of the surcharge, interest earnings on the surcharge account, or other factors.

(i) For districts receiving a rebate for taxes paid to a city or other entity for water, wastewater, drainage, recreational, or road service, the equivalent tax rebate shall be calculated as follows:

Figure 3: 30 TAC §293.59(i) (No change.)

$$\frac{(\text{total amount rebated by entity to district}) \times 100}{\text{certified assessed value of district}}$$

(j) The assessed value is the appraised value after considering exemptions and special valuations and is the amount to which the tax rate is applied to determine the total tax levy.

(k) For a district's first bond issue, the following paragraphs apply except that paragraphs (5), (6), (8), and (10) of this subsection are only applicable to a district that has a developer as defined by Texas Water Code (TWC), §49.052(d).

(1) The district shall provide the current and projected tax rates of all entities levying or proposing to levy taxes on land within the district and a comparison of such taxes with the total tax levy on all competing projects in the same market area, as defined in the market study, if applicable, shall be provided.

(2) A cash flow analysis to determine the projected debt service revenue and projected tax rate shall be provided. It should include the following assumptions.

(A) Each ending debt service balance in the cash flow analysis will be not less than 25% of the following year's debt service requirement.

(B) Interest income will only be shown on the ending debt service balance for the first two years.

(C) A 90% tax collection rate shall be used in all the projected tax rate calculations and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(D) The projected tax rate shall be level or decreasing for the life of the bonds.

(3) The combined projected tax rate must not exceed the following:

(A) \$1.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$1.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) \$1.00 in all other counties.

(4) The combined no-growth tax rate must not exceed the following:

(A) \$2.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$2.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) \$2.00 for all other counties.

(5) The following apply to the central appraisal district certificate.

(A) If the valuations contained in the certificate of certified assessed valuation are at least 25% higher than those contained in the previous year's certified valuation, a written explanation from the district of such increase and a detailed calculation demonstrating how the value was derived shall be provided.

(B) In determining the projected or no-growth tax rates, a certificate of estimated assessed valuation may be used under the following conditions:

(i) the developer or landowner to receive bond proceeds shall certify, represent, and agree that it will not challenge and attempt to reduce its valuations below the values shown on the certificate for the life of the bonds;

(ii) if the valuation contained in the certificate of estimated taxable valuation is at least 25% higher than that contained in the most recent certified valuation, a written explanation from the district of such increase shall be provided;

(iii) if the estimated taxable valuation results in an exemption from §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) and the final certificate of taxable value is not sufficient for an exemption from that section, the developer will be obligated to refund to the district the difference in the bond issue requirement without developer contribution and with developer contribution plus interest at the bond interest rate to the district; and

(iv) developed land values will not be used in the commission's analysis for lots that do not have completed water, wastewater, and drainage facilities and roads constructed to county or city standards, as applicable, at the time of development.

(6) At the time of commission approval, the following shall apply:

(A) all underground water, wastewater, and drainage facilities to be financed with proceeds from the proposed bond issue or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, shall be at least 95% complete as certified by the district's engineer;

(B) all groundwater, surface water, waste discharge permits, or other permits needed to secure capacity to support the projected build-out shall have been obtained;

(C) sufficient lift station, water plant, and sewage treatment plant capacity, as applicable depending on the type of district, to serve the connections projected for a period of not less than 18 months shall be either 95% complete as certified by the district's engineer or available in existing plants in accordance with executed contracts for capacity in plant(s) owned by other entities (but in no event less than 50,000 gallons per day water plant and sewage treatment plant capacity);

(D) water supply, lift station, and wastewater treatment capacity needed to support the projected build-out used to support the feasibility of the subject bond application must be existing or funds for that capacity must be included in the bond issue or secured by a letter of credit or other acceptable guarantees approved by the executive director; and

(E) all street and road construction to provide access to the areas provided with utilities to be financed with proceeds from the proposed bond issue, or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, must be 95% complete as certified by the district's engineer. All streets and roads shall be constructed in accordance with city or county standards, as appropriate.

(7) At least 25% of the projected value of houses, buildings, and/or other improvements shown in the projected tax rate calculations must be completed prior to advertising for the bond issue. The projections used to satisfy this section shall also be used in the calculations required by paragraphs (2) and (3) of this subsection.

(8) For bonds supported by taxes, a written agreement must be executed between the district and the developer and any other landowner and their respective lenders receiving proceeds of the bonds that permanently waives the right to claim agricultural, open-space, timberland, or inventory valuation for any land, homes, or buildings that they own in the district with respect to taxation by the district. The agreement shall be binding for 30 years on such developer, other landowners, their respective lenders, any related or affiliated entities, and their successors and assignees, unless such exemptions were in effect at the time of the commission's approval of the bond issue and such exemptions were shown in the projected tax rate calculations. Such developer, landowners, and lenders shall record covenants running with the land to such effect, which shall not be modified or released without written authorization of the commission, and shall provide recorded copies to the commission at the time of filing a bond application. If written agreements by owners of developable property who are not receiving bond proceeds are not voluntarily provided, and the ratio of the assessed valuation of their property to the district's total certified assessed valuation exceeds 10% for any individual or 20% for all combined, the feasibility analysis of the bond issue will be based on a reduced value for such property if not already on the tax rolls at a minimal value.

(9) One or more of the requirements in paragraphs (1) - (8) of this subsection may be waived for good cause by commission order if all of the facilities proposed under a bond issue application are essential because of valid orders, permits, or actions against the district by a governmental agency or court. If only a portion of the bond issue is for facilities essential because of valid orders, permits, or actions against the district by a governmental agency or court and if a waiver of any of the requirements is requested, all nonessential projects may be deleted from the bond issue if not feasible under the other provisions of these rules.

(10) A current market study is required for districts using growth projections to support the feasibility of the bond issue. The market study will meet the guidelines set out in the Bond Application Report Format. The market study provided will specifically address the projected building program for the three years subsequent to filing of the bond application and the period of projected build-out shown in the bond application and the competing projects in the surrounding market area. The study must contain a detailed description of the proposed development and the houses, buildings, and other improvements that are proposed.

(11) Requirements of paragraph (6)(A), (C), and (E) of this subsection, and the requirements of paragraph (7) of this subsection shall not apply in the following cases where:

(A) the no-growth tax rate for a district containing 2,000 acres or more providing only drainage facilities does not exceed \$1.30; the no-growth tax rate of a district providing major water and sewage facilities that it finances by the issuance of its bonds to an area containing 2,000 acres or more does not exceed \$1.30, and the combined no-growth tax rate does not exceed \$2.00; and, the developer has completed a substantial amount of major thoroughfare or other infrastructure to serve the district;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title or a credit enhanced rating as defined in paragraph (5) of this subsection; or

(C) the district is providing water, wastewater, and drainage facilities and the combined no-growth tax rate of all overlapping entities specifically attributable to water, sewage, drainage, recreational facilities, and roads if the entity is a special district

encompassing less than one county commissioner's precinct, if any, does not exceed the following:

(i) \$1.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(ii) \$1.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(iii) \$1.00 in all other counties.

(D) for the exceptions in subparagraph (A) or (C) of this paragraph, the developer shall provide a guarantee for its 30% share of utilities, if required under §293.47 of this title, in the form and manner required by §293.47(g) of this title;

(E) for utilities that are not funded and not complete but necessary to support the feasibility of the bond issue, the developer shall provide a guarantee for 100% of utilities for the exceptions in subparagraphs (A), (B), or (C) of this paragraph in the form and manner required by §293.47(g) of this title;

(F) for the exceptions in subparagraph (B) or (C) of this paragraph, the developer shall provide a paving guarantee under §293.48 of this title (relating to Street and Utilities Construction by Developer); or

(G) for the exceptions in subparagraph (A) of this paragraph, financial guarantees for the internal subdivision utilities and streets are not required.

(l) For a district's second and subsequent bond issues, subsection (k) of this section shall apply, and the following shall apply except that only paragraph (1) of this subsection applies to districts that do not have a developer as defined by TWC, §49.052(d), or to districts that meet the criteria set out in subsection (k)(11) of this section.

(1) A 90% tax collection rate shall be used in the projected tax rate calculations unless the district demonstrates that its historical collection rate is higher, and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(2) The water, wastewater, and drainage facilities financed by the district under previous bond issues and all road and street construction to serve such connections shall be at least 95% complete as certified by the district's engineer.

(3) Sufficient lift station, water plant, and sewage treatment plant capacity to serve the connections shown in the tax rate calculations submitted in prior bond issues shall be at least 95% complete as certified by the district's engineer, unless the district is a participant in a regional surface water or wastewater plant, a permit sufficient for the expansion has been issued, and either:

(A) funds are available to finance such capacity and any additional capacity necessary for a feasible expansion;

(B) sufficient capacity is contractually available to serve all such prior connections; or

(C) the plant is under construction with sufficient capacity to serve all such prior connections.

(4) Houses and/or buildings equal to 75% of the projected buildout used in the projected tax rate calculations contained in all prior bond issues shall be completed and may be located on either:

(A) the area developed from the proceeds of the prior bond issues; or

(B) a combination of the area developed from the proceeds of prior bond issues, the proposed bond issue, and future bond issues.

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) disregarding those areas that had growth projected and were financed in previous bond issues, at least 50% of the value of the houses and/or buildings shown in the build-out schedule and used in the projected tax rate calculations supporting the subject bond issue must be existing;

(B) the district anticipates receiving an acceptable credit rating as defined in §293.47(b)(4) of this title or a credit enhanced rating as defined in §293.47(b)(5) of this title, and such rating must be obtained prior to the sale of bonds; or

(C) the district has a ratio of debt to assessed valuation as provided in §293.47(a)(1) of this title.

(m) Bond issues supported only by revenue from a defined area must be analyzed to assure that the defined area meets the requirements of this section independently of the remainder of the issuing district.

(n) A district may request a variance if it does not meet the guidelines contained in subsections (k) and (l) of this section, and a majority of the district's board of directors finds by resolution that the district will be justified in requesting a variance. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance. The commission shall not grant a variance to the maximum combined projected tax rate or the maximum combined no-growth tax rate specified in subsection (k) of this section for districts that have a developer and the district is financing 100% of construction costs under the criteria set out in §293.47(a) of this title, which would otherwise require 30% developer participation. In determining whether to grant a variance, the following factors shall be considered:

(1) the degree of variation from the guidelines;

(2) the past history of the district with respect to its projections versus actual build-out and compliance with commission rules;

(3) the past history of the developer and related or affiliated entities with respect to its projections versus actual build-out and its compliance with commission rules and agreements with the district and other districts in which it developed land;

(4) other factors peculiar to the district, such as the area in which situated, economic factors, the adjoining competitive developments, and their status;

(5) the financial resources of the developer and its lender and any special commitments, obligations, or expenditures for the project;

(6) past history of the market area in which the project is located; and

(7) other factors that may affect the feasibility of the project.

**SUBCHAPTER F: DISTRICT ACTIONS RELATED TO CONSTRUCTION PROJECTS AND
PURCHASE OF FACILITIES**

§293.63

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(d) and (a)(1) in SB 938; TWC, §49.181(f)(1) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) in HB2815; and TWC, §57.059(a) in HB 2815.

§293.63. Contract Documents for Water District Projects.

Contract documents for water district construction projects shall be prepared in general conformance with those adopted and recommended by the Texas Section of the American Society of Civil Engineers (latest revision). The following specific requirements must apply, unless otherwise provided by a district's special law.

(1) All contract documents shall be prepared in such a manner as to promote competitive bidding and to ensure that all bids are prepared on a common basis.

(2) The instruction to bidders section of the contract documents shall give special attention to the following items.

(A) The basis of award shall be clearly defined. If alternate proposals are to be considered, the instructions to bidders shall clearly state in which order the alternates will be considered in determining the most advantageous bid. If two or more contracts are to be awarded, the instructions to bidders shall clearly indicate if combined bids, or tied bids, will be allowed, or if each contract will be awarded separately.

(B) The contract should clearly provide that alternate bids will not be considered, unless specifically allowed by instructions to bidders and requested in the proposal form.

(C) Specific notice shall be given that qualifying statements or accompanying qualifying letters will be cause for rejection of the bid.

(D) Provision shall be made for prospective bidders to request additional information, explanations, or interpretations regarding contract documents prior to the bid opening. All requests and answers to all such requests shall be given in writing. Answers will be in addendum form to all prospective bidders.

(3) The district shall require the bidder to whom the district proposes to award the contract to submit a statement of qualifications. The statement shall include such data as the district may reasonably require to determine whether the contractor is responsible and capable of completing the proposed project.

(4) For contracts over \$50,000, the district shall require bidders to submit certified or cashier's checks or a bid bond issued by a surety legally authorized to do business in this state in an amount of at least 2.0% of the total amount of the bid. For a contract greater than \$250,000, the district must accept a bid bond if it meets all requirements. If cashier's checks are required, the checks for all bidders except the three most qualified bidders shall be returned within three days of the bid opening.

(5) The district shall require that bidders submit, along with the bid, the name of the person, firm, or corporation that will execute payment and performance bonds.

(6) The district may establish criteria for acceptability of the surety company issuing payment and performance bonds including, but not limited to:

(A) authorization to do business in Texas; and

(B) authorization to issue payment and performance bonds in the amount required for the contract and:

(i) a rating of at least B from Best's Key Rating Guide; or

(ii) if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the United States Small Business Administration and must be an approved surety company listed in the current United States

Department of Treasury Circular 570. Such performance and payment bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury with respect to performance and payment bonds for federal jobs, including specifically the rules related to the underwriting limitation. The district shall satisfy itself that such surety company and bonds meet such criteria.

(7) The district shall satisfy itself that all persons executing the bonds are duly authorized by the laws of the State of Texas and the surety company to do so.

(8) For contracts over \$150,000 [\$75,000], a district's board shall advertise the project once a week for two consecutive weeks. For contracts over \$25,000 but not more than \$150,000 [\$75,000], a district's board shall solicit written competitive bids on the project from at least three bidders. For contracts not more than \$25,000, a district's board is not required to advertise or seek competitive bids.

(9) A board of a special law district may elect to contract in accordance with the requirements in Texas Water Code, §49.273, even if those requirements conflict with provisions in the district's special law.

(10) A district with a population of more than 100,000 may utilize the design-build procedure for limited projects as provided in Local Government Code, Chapter 271, Subchapter J.

**SUBCHAPTER G: OTHER ACTIONS REQUIRING COMMISSION CONSIDERATION FOR
APPROVAL
§293.81**

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(d) and (a)(1) in SB 938; TWC, §49.181(f)(1) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) in HB2815; and TWC, §57.059(a) in HB 2815.

§293.81. Change Orders.

A change order is a change in plans, specifications, or scope of work for construction work that is under contract. For purposes of this section, a variation between estimated quantities and actual quantities or use of supplemental items included in the bid where no change in plans and specifications has occurred is not a change order.

(1) Districts are authorized to issue change orders that are necessary or beneficial to the district as determined by the district's board, which alter the plans, specifications, or scope of work in the contract, subject to the following conditions.

(A) The aggregate of change orders that increase the original contract price more than 25% may be issued only in response to:

(i) unanticipated conditions encountered during construction, repair, or renovation;

(ii) changes in regulatory criteria; or

(iii) coordination with construction of other political subdivisions or entities.

(B) All change orders must be in writing and executed by the district and the contractor and approved by the district's engineer.

(C) The competitive bidding requirements of Texas Water Code, §49.273(d) and (e) shall not apply to change orders issued in accordance with this section.

(2) No commission approval is required if the change order is \$150,000 [\$50,000] or less. If the change order is more than \$150,000 [\$50,000], the executive director or his designated representative may approve the change order. For purposes of this section, if either the total additions or total deletions contained in the change order exceed \$150,000 [\$50,000], even though the net change in the contract price will be \$150,000 [\$50,000] or less, approval by the executive director is required.

(3) If the change order is \$150,000 [\$50,000] or less, a copy of the change order signed by the contractor and an authorized representative of the district shall be submitted to the executive director within ten days of the execution date of the change order, together with any revised construction plans and specifications approved by all agencies and entities having jurisdictional responsibilities, i.e., city, county, state, other, if required.

(4) Applications for change orders requiring approval shall include:

(A) a copy of the change order signed by an authorized officer or employee of the district and the contractor, and a resolution or letter signed by the board president indicating concurrence with the proposed change;

(B) revised construction plans and specifications approved by all agencies and entities having jurisdictional responsibilities, i.e., city, county, state, other, if required;

(C) a detailed explanation for the change;

(D) a detailed cost summary showing additions and/or deletions to the approved plans and specifications, and new contract price or cost estimate;

(E) a statement indicating amount and source of funding for the change in plans including how the available funds were generated;

(F) the number of utility connections added or deleted by the change, if any;

(G) certification as to the availability and sufficiency of water supply and wastewater treatment capacities to serve such additional connections;

(H) filing fee in the amount of \$100; and

(I) other information as the executive director or the commission may require.

(5) Copies of all changes in plans, specifications, and supporting documents for all water district projects will be sent directly to the appropriate commission field office, simultaneously with the submittal of the documents to the executive director.

(6) Requirements relating to change orders shall also apply to construction carried out in accordance with §293.46 of this title (relating to Construction Prior to Commission Approval), except commission approval or disapproval will not be given. Change orders which are subject to executive director approval will be evaluated during the bond application review.

SUBCHAPTER H: REPORTS

§293.91

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, 57.053, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f); LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(d) and (a)(1) in SB 938; TWC, §49.181(f)(1) in HB 2815; TWC, §49.273(d) and (e) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.053(d) in HB2815; and TWC, §57.059(a) in HB 2815.

§293.91. Reporting by Districts.

(a) All districts are required to submit certain documents and reports to the executive director by the Texas Water Code, Chapter 49, as follows:

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

(2) certified copy of the order of the district's governing board changing the boundaries of the district within 60 days after the date of any boundary change together with a linen tracing or other map of equal quality showing the new boundaries;

(3) 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;

(4) a certified copy of the audit report within 15 days after the date of completion of any audit of the affairs of the district, other than the annual audit required by Water Code, §49.191;

(5) an annual audit report, financial report, or financial dormancy affidavit, as required by §293.94(c), (e), and (f) of this title (relating to Annual financial Reporting Requirements); [and]

(6) an annual filing affidavit, as required by subsection (g) of §293.94 of this title (relating to Annual financial Reporting Requirements), and Water Code, §49.194(d), certifying that all filings of copies of the annual audit report, an annual financial dormancy affidavit, or annual financial report, as applicable, have been completed; and [.]

(7) a copy of an order dividing a district within 30 days after the date of adoption of the order dividing the district according to TWC, §49.316.

(b) Districts created pursuant to general law under provisions of the Texas Water Code are subject to specific reporting requirements. Each district should comply carefully with the reporting requirements provided in the Texas Water Code chapter under which it was created. Districts created pursuant to special acts of the Texas Legislature may be subject to specific

reporting requirements. Each district so created should comply carefully with any reporting requirements contained in special act of the Texas Legislature under which it was created.