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Via Electronic Submission <https://tceq.commentinput.com/comment/search>

Mr. Corey Bowling
MC 205
Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Texas Commission on Environmental Quality (the "TCEQ") Rule Project
Number 2025-009-293-OW

Dear Mr. Bowling:

Thank you for the opportunity to provide comments on the referenced rule project implementing HB 1410 from the 87th Texas Legislature and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

Attached are our comments to the TCEQ's proposed language. These comments parallel the amended statutes. We have provided below additional explanation for the comments provided. Except as noted herein, we concur with the rule amendments as proposed.

1. Proposed TCEQ amendments to 30 TAC §293.12. (SB 1397. Implementing §49.011(b), Texas Water Code.)

The TCEQ's proposed amendments to 30 TAC §293.12 do not implement the requirement enacted by SB 1397. The requirement enacted by SB 1397 requires TCEQ to provide *the creation notice* to each state representative and state senator who represents an area inside the proposed district's boundaries. The amendment proposed by the TCEQ requires TCEQ to notify each state representative and state

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senator upon receipt of a creation petition. Our proposed changes will implement the specific statutory change enacted in SB 1397.

2. Additional amendments - 30 TAC §293.32(a). (HB 2815. Implementing repeal of §54.103, Texas Water Code.)

The TCEQ did not propose amendments to implement the changes made by HB 2815 to repeal §54.103, Texas Water Code. This statutory change needs to be implemented. Please see the attached proposed changes to §293.32(a).

3. Additional amendments - 30 TAC §293.44(b)(4). (Implementing proposed TCEQ amendments to §293.41.)

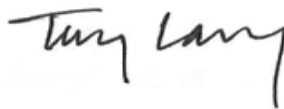
The TCEQ's proposed amendments to §293.41 require an update to the reference of said section in §293.44(b)(4).

4. Additional amendments - 30 TAC §293.92(1)(K)(i). (HB 2815. Implementing §49.455(c), Texas Water Code.)

The TCEQ did not propose amendments to implement the changes made by HB 2815 to §49.455(c), Texas Water Code. This statutory change needs to be implemented. Please see the attached proposed changes to §293.92(1)(K)(i).

Thank you for making these important rule changes. Please contact me with any comments or questions.

Sincerely,



Trey Lary

Enclosure

**Comments to Proposed Chapter 293 Rules
Rule Project Number 2025-009-293-OW**

1. 30 TAC §293.12. (Starting at Page 47 of the Rule Packet)

(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 executive director shall provide the notice described in subsection (b) of this section to each state representative and state senator who represents an area inside the proposed district's boundaries.

(d) [(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.

(e) [(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.

(f) [(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).

(g) [(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.]~~

2. Additional Amendments Necessary to Implement the Repeal of §54.103, Texas Water Code (Section 32(8) of HB 2815, 88th Texas Legislature).

30 TAC §293.32(a).

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

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

(A) must be:

(i) a resident of this state;

(ii) an owner of taxable property in the district; and

(iii) at least 18 years of age; or

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

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

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

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

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

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

~~[(A) resigned from that board:]~~

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

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

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

(6) ~~[(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.

(7) ~~[(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.

3. Additional Amendments Necessary to Update a Reference Based on Proposed Amendment to §293.41.

30 TAC §293.44(b)(4).

(4) A district may finance those costs associated with recreational facilities, as defined in §293.1(c) of this title (relating to Objective and Scope of Rules; Meaning of Certain Words) and as detailed in §293.41(e)(2) of this title (relating to Approval of Projects and Issuance of Bonds) for all affected districts that benefit and are available to all persons within the district. A district's financing, whether from tax-supported or revenue debt, of costs associated with recreational facilities is subject to §293.41(e)(1) - ~~(7)~~ ~~[(6)]~~ of this title and is not subject to the developer's 30% contribution as may be required by §293.47 of this title. The automatic exemption from the developer's 30% requirement provided in this paragraph supersedes any conflicting provision in §293.47(d) of this title. In planning for and funding recreational facilities, consideration is to be given to existing and proposed municipal and/or county facilities as required by TWC, §49.465, and to the requirement that bonds supported by ad valorem taxes may not be used to finance recreational facilities, as provided by TWC, §49.464(a), except as allowed in TWC, §49.4645.

4. Additional Amendments Necessary to Implement §49.455(c), Texas Water Code, as Amended by Section 24 of HB 2815, 88th Texas Legislature.

30 TAC §293.92(1)(K)(i).

(i) The information [~~and map or plat~~] required by this section and each amendment to the same shall be signed by a majority of the members of the governing board of the district and by each such officer affirmed and acknowledged, before it is filed with the county clerk.