

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Todd Chenoweth, General Counsel
Jessica Zuba, Deputy Executive Administrator, Water Supply & Infrastructure

FROM: Matt Nelson, Assistant Deputy Executive Administrator, Water Supply & Infrastructure

DATE: November 3, 2016

SUBJECT: Briefing and discussion on structure and operation of the regional water planning groups.

ACTION REQUESTED

This is an informational item presenting background and an overview of regional water planning groups (planning groups) for discussion. No action is required.

BACKGROUND

In accordance with Senate Bill 1, 75th Texas Legislature, the Texas Water Development Board (TWDB) adopted the rules for state and regional water planning and also designated initial coordinating bodies (ICB) by the November 1998 deadline. The TWDB designated ICB representatives through an extensive selection process involving soliciting and accepting nominations and an agency review process. The process considered the number and nature of nominations, for example from organizations, as well as qualifications and experience of individuals. Based on that process, the agency reviewed the nominations received and designated 270 candidates as ICB representatives (Table 1). Each designated member of the ICB was then notified by certified mail of their ICB membership and was directed to participate in the process.

The ICBs were then required to name additional members to represent interests in their regional water planning area. The planning groups (consisting of the ICB members and additional members named by the ICB) then adopted bylaws for their governance and internal operation. At the time, the TWDB provided model bylaws to all 16 planning groups to assist them in this process.

The initial statute and administrative rules required that the 16 planning groups represent 16 regional water planning areas and that each planning group maintain, at a minimum, representatives of the following 11 statutorily required voting interest categories:

- public
- counties
- municipalities
- industries
- agriculture
- environmental
- small business
- electric generation utilities
- river authorities
- water districts
- water utilities

Table 1: Planning group voting membership

Region	Minimum statutory member requirement			Actual membership		
	1997-2011	Required after SB 660 (September 2011)	Change	1998 Total ICB*	December 2015 (at adoption of 2016 plans)	Total change between 1998 and 2015
A	11	13	2	16	23	7
B	11	13	2	13	18	5
C	11	14	3	18	22	4
D	11	11	0	16	24	8
E	11	13	2	17	25	8
F	11	14	3	20	21	1
G	11	16	5	17	23	6
H	11	13	2	22	24	2
I	11	13	2	20	22	2
J	11	14	3	13	22	9
K	11	17	6	17	25	8
L	11	16	5	20	30	10
M	11	12	1	14	20	6
N	11	14	3	15	21	6
O	11	13	2	17	22	5
P	11	12	1	15	18	3
TOTAL	176	218	42	270	360	90

* Data is from the February 25, 1998 Designated Initial Coordinating Body (ICB) Lists for Regions A through P.

In 2011, the 82nd Texas Legislature passed Senate Bill 660 which added a new voting membership requirement whereby representatives of groundwater conservation districts were required to appoint one representative to planning groups for each groundwater management area located within the regional water planning area (Table 2).

Table 2: Statutorily required groundwater management area voting members

	Groundwater Management Areas																Voting representatives required by SB 660
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
Regional Water Planning Groups	A	1					1										2
	B						1	1									2
	C						0	1			1	1					3
	D							0			0						0
	E				1	0		1									2
	F		1	1				1	0								3
	G						1	1	1			1		1			5
	H										0	1		1			2
	I										1			1			2
	J							1		1	1						3
	K							1	1	1	1		1			1	6
	L							1		1	1		1		1		5
	M												0			1	1
	N												1		1	1	3
	O		1				1										2
P															1	1	
Total	1	2	1	1	0	4	6	4	3	3	2	4	2	3	4	2	42

Blank = groundwater management area (GMA) is not located within regional planning area.
 0 = GMA located within regional planning area, but no groundwater conservation district (GCD) overlaps the GMA within the regional planning area.
 1 = GMA located within the regional planning area, and a GCD overlaps the GMA within the regional planning area (voting GMA representative required).

Because the number of groundwater management areas occurring within regional water planning areas varied, the number of voting representatives required under Senate Bill 660 varied accordingly. Region D was not required to include any additional voting members because there were no groundwater districts located within Region D, whereas Region K required 6 voting members in this new category (Table 2). The new law required a minimum of 42 voting member positions, statewide, to represent the groundwater management area interest category.

The new membership requirement did not always result in a one-to-one increase to membership because planning groups, in many cases, reclassified some of their existing voting membership positions, for example those already held by groundwater conservation district representatives, to reduce the net change to their voting membership. This was in an effort to limit the overall increase to voting membership and to keep planning groups at a reasonable size.

The total number of planning group voting members has increased from the ICB total of 270 to a total of approximately 360 members at the time of the most recent regional water

plan adoptions (Table 1). The required minimum statutory voting membership has increased from 176 to 218 over this same time period.

At any time, planning groups may choose to add additional voting membership to represent additional interest categories, such as for economic development, higher education, or recreation, or to add more members within a single, existing category. The planning groups generally have over 20 members each and there were a total of approximately 450 voting member individuals involved during the recent planning cycle. Region L is currently the largest planning group with 30 voting member positions.

Other planning group members required by statute include non-voting members representing the Texas Department of Agriculture and the Texas Parks and Wildlife Department, and by rule, a representative of certain water right holders or water suppliers headquartered outside the regional water planning area that provides water within the planning area or receives water from the planning area. Each planning group also includes liaisons from adjacent planning groups that facilitate the sharing of information and help coordinate planning activities.

In the course of each five-year planning cycle, each planning group must:

- designate a political subdivision of the state, such as a river authority or council of governments, to serve as its administrator for the purpose of arranging meetings, managing grant-funded contracts, and providing public notices (the political subdivision provides staff resources, at the region's expense, to perform these administrative services);
- apply to the TWDB for regional water planning grant funding through their political subdivision;
- select a technical consultant(s) in accordance with the procurement requirements of the political subdivision¹ to serve at the direction of the planning group and to collect information, perform analyses, and prepare the regional water plan document;
- direct the development of their water plan, including making decisions about which water management strategies will be recommended;
- solicit and consider public input, conduct open meetings, and, together with its political subdivision, provide required public notices, including for public hearings on the initially prepared (draft) regional water plan;
- submit its initially prepared plan and standardized data to the TWDB for review; and
- adopt a final regional water plan and submit it to the TWDB for approval.

Planning groups are required to maintain their bylaws and membership and to hold meetings in accordance with the Texas Open Meetings Act including holding regular,

¹ Per 31 TAC §355.92(c): regional water planning groups may obtain professional services only if such services are procured on the basis of demonstrated competence and qualifications through a request for applications process in accordance with TX Government Code Ch. 2254.

publicly posted meetings. Statute and planning rules include extensive public notice requirements for hearings and meetings.

Planning groups must follow their bylaws and provide their membership information and bylaws to TWDB. The bylaws and operation of the 16 planning groups varies from region to region (Attachment).

KEY ISSUES

On June 20, 2016, the Senate Agriculture, Water, and Rural Affairs Committee held an interim hearing to accept invited and other testimony on its interim charge of examining the regional and state water planning processes including with an emphasis on the structure and operation of the planning groups. During the hearing, Chairman Perry requested that C.E. Williams, the Chair of the Region A Regional Water Planning group, gather summary information on how all 16 planning groups operate. The TWDB staff assisted initially gathering and summarizing that information which Mr. Williams then completed and vetted through all of the planning groups. The resulting information is included here as an attachment.

The EA has been made aware of various stakeholder concerns regarding the operation of planning groups, specifically:

- the public notice posting requirements as relates to planning group subcommittee meetings;
- how vacant planning group positions are filled;
- lack of change to leadership of certain planning groups over time;
- inability, under current planning rules, to use regional water planning grants for the purpose of reimbursing salaries of political subdivision staff that support the planning groups; and
- that the procurement processes for planning group technical consultants aren't uniform across regions.

Notice of this work session was broadcast to registered stakeholders of the TWDB and all regional water planning group members in the state. Any written comments received by November 3, 2016 will be summarized and presented to the Board in an aggregated format for discussion purposes only. The TWDB will not be responding directly to specific written comments received. Public comments will also be taken at this open work session.

RECOMMENDATION

This item is for discussion only. No action is required.

Attachment: Select bylaw and operational information of 16 planning groups

Select bylaw and operational information of 16 regional water planning groups

Region	General								RWPG Membership Terms			Process for Filling Voting Membership Vacancy					RWPG committees/ subcommittees/ workgroups	
	Last Amendment to bylaws	Number of Voting Members (as of 8/4/2016)	Requirement for a Quorum	Voting Requirement for Plan Adoption	Minimum Attendance Requirement for Voting Member	Specific Diversified Geographic Representation Required	Additional Voting Member Categories in Addition to 12* Statutorily Required	Specific Procedures for the Designation Voting Member Alternate	Voting Membership Term Limits Exist	Length of Terms (Years)	Specific Allowances for Members to Renew	Nominations Accepted from Vacating Members	Nominations Accepted from Floor at Regular RWPG Meeting (72-hrs notice)	Recommendations Developed by Executive or Nominating Committee	Public Notice of Vacancy Posted in Newspapers of Planning Area	Notice of Vacancy Sent to County Clerks and/or Judges	RWPG Utilizes Sub/ Committees/ Workgroups	RWPG Provides Public Notice of Sub/ Committees/ Workgroup Meetings
A	1/24/2011	23	Simple majority of the voting members (12)	Strive for consensus; required 2/3 majority of voting membership	Yes	Yes	Yes - Higher Education	Yes	Yes	3	RENEW	Yes	No	Yes	Yes	No	Yes	Yes
B	7/23/2003	19	Simple majority of voting members or designated alternates	By consensus, but not less than agreement of two-thirds (2/3) of the voting membership present	Yes	Yes	No	Yes	No	5	RENEW	Yes	Yes	Yes	Yes	No	Yes	Yes
C	1/26/2015	22	Simple majority of voting members or designated alternates	By consensus, but not less than agreement of two-thirds (2/3) of the voting membership present	Three consecutive meetings or one half of meetings in 12 month period	No	No	Yes	Yes	5	Not clear; > 1 term not specifically prohibited	No	Yes	Yes	No	No	Yes	No
D	4/20/1998	24	Simple majority of voting members or designated alternates excluding vacancies	Strive for consensus; required 2/3 majority of voting membership	Voting members of Region D that have recorded absences from three consecutive meetings shall be subject to removal from membership under Article V, Section 5.	Yes	No	Yes	Yes	3	RENEW for 2 consecutive terms maximum	Yes	Yes	Yes	Yes	No	Executive committee only	Executive committee agendas posted. Executive committee meeting held prior to regular meeting.
E	7/27/2006	24	Simple majority of voting members or designated alternates	Strive for Consensus; required 2/3 majority of voting membership	Yes	No	Yes - Tourism, Econ Dev., Real Estate	Yes	Yes	3	RENEW	Yes	Yes	Yes	Yes	Yes	Yes	Yes
F	3/15/2011	21	Simple majority of voting members excluding vacancies	Strive for consensus, but if not reached majority of voting membership present	Three consecutive meetings or one half of meetings in 12 month period	No - "strive for" but not required	No	Yes	Yes	5	RENEW	Yes	No	Yes	Yes	Yes	Yes	No
G	11/5/2014	23	Simple majority of voting members excluding vacancies	2/3 of voting members present	Yes	No - "strive for" but not required	No	Yes	No	N/A	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes
H	10/1/2007	26	Simple majority of the voting members (14)	Strive for consensus; require 2/3 majority of voting membership	Yes; subject to removal if miss half of meetings in prior 12 months	No	No	Yes	No	5	RENEW	Yes	Yes	Yes	No	No	Yes	Yes
I	2/13/2013	24	Simple majority of voting members or proxies	2/3 requirement, no proxies allowed	Yes	No - "strive for" but not required	No	Yes	No	N/A	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes (Meet same day prior to regular meeting)
J	7/6/2010	22	Simple majority of voting members excluding vacancies	2/3 of voting members present	Yes - but not enforced	Yes	Yes - Tourism, Other	Yes	Yes	5	Renew - no maximum term (not addressed in bylaws)	Yes	Yes	Yes	No	Yes	Yes	Yes
K	4/10/2013	25	Simple majority of the voting members (13)	2/3 voting membership	50% of meetings	Yes	Yes - Recreation	Yes	Yes	5	RENEW	Yes	Yes	Yes	Yes	Yes	Yes	No
L	2/2/2012	30	Simple majority of voting members excluding vacancies	Strive for consensus, but if not reached majority of voting membership	Yes	Yes	No	Yes	Yes	5	RENEW	Yes	Yes	Yes	Yes	No	Yes	Yes
M	7/13/2016	20	Simple majority of the voting members (11)	By consensus, but not less than agreement of two-thirds (2/3) of the voting membership present	Yes	Yes	Yes - Other	Yes	Yes	5	RENEW for 2 consecutive terms maximum - petition for longer	Yes	No	Yes	Yes	No	Yes	No
N	3/12/2015	21	Simple majority of voting members	2/3 of voting members present	Members with 3 consecutive unexcused absences or unexcused absences for 1/2 of the previous 12 month's meetings are subject to removal. An unexcused absence is when the member fails to inform the poly sub that they won't be there. Article V, Section 5	Yes	Yes - Other	Yes	Yes	5	RENEW - At the end of the term, the position is open for anyone to apply, including the incumbent. The incumbent's selection is not automatic. Article V, Section 4	Yes	No	Yes	Yes	Yes	Yes - as needed, there are no standing workgroups	Yes
O	2/18/2010	25	50% of the planning group	A two-thirds vote of the members of the planning group is required	Yes; Unexcused absence from two consecutive meetings, appointment of a successor, change in status	No	Subcategories (Municipalities: small, medium, and large; Water Districts: municipal water supply districts and GCDs)	No	Yes	5	RENEW but not addressed in bylaws	No, but all candidates should obtain recommendation letter from member	No	Yes	No	No	Yes	No
P	5/14/2012	18	Simple majority of voting members excluding vacancies	By consensus, but not less than agreement of two-thirds (2/3) of the voting membership	Three consecutive meetings or one half of meetings in 12 month period	Yes	No	Yes	Yes	5	RENEW	Yes	Yes	Yes	No	No	Yes	Yes

* The 12 interest categories required by statute include public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, water utilities, and groundwater management area representatives.

** The information provided has been gathered from the planning group bylaws on file at the TWDB, which may not be the latest bylaw versions. This information is only meant as a starting point and needs to be verified by each planning group.