

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas Water Development Board Exhibit 3: Policymaking Body			
Member Name	Term/Appointment Dates/ Appointed by Governor	Qualification (e.g., public member, industry representative)	City
James Edward Herring Chairman	Term: Six years Appointment Dates: 2/17/04–12/31/09	Public Member	Amarillo
Jack Hunt Vice Chairman	Term: Six years Appointment Dates: 1/27/98–12/31/09	Public Member	Houston
Joe M. Crutcher	Term: Six years Appointment Dates: 2/12/08–12/31/13	Public Member	Palestine
Thomas Weir Labatt III	Term: Six years Appointment Dates: 2/19/02–12/31/11	Public Member	San Antonio
Lewis H. McMahan	Term: Six years Appointment Dates: 3/13/08–12/31/11	Public Member	Dallas
Edward G. Vaughan	Term: Six years Appointment Dates: 3/13/08–12/31/13	Public Member	Boerne

B. Describe the primary role and responsibilities of your policymaking body.

The TWDB is the state agency with primary responsibility for conducting water planning and administering water financing for the state (Texas Water Code §6.011). In executing these responsibilities, the Board appoints an Executive Administrator and sets general policy direction.

The primary roles and responsibilities of the Board are enumerated in the Texas Water Code. In general, this responsibility is administering laws and policies relating to the following:

- Supporting regional water planning efforts and developing and implementing of the state water plan for the orderly and responsible development, management, and conservation of the state's water resources
- Administering the state's various water assistance and financing programs for water supply projects;

water quality projects, including wastewater treatment, municipal solid waste management, and nonpoint source pollution control; flood control projects; agricultural water conservation projects; rural and small community water and wastewater projects; and expenses for creating groundwater conservation districts

- Studying the occurrence, quantity, quality, and availability of the state's surface water and groundwater, including developing of groundwater availability models for the state's major and minor aquifers
- Collecting data and conducting studies concerning the freshwater needs of the state's bays and estuaries
- Facilitating the state's efforts to determine the feasibility and identify the requirements for implementing large-scale seawater desalination projects
- Maintaining a centralized data repository of information on the state's natural resources called the Texas Natural Resources Information System (TNRIS)
- Serving as the state coordinating agency for the federal National Flood Insurance Program
- Implementing federal Flood Mitigation Assistance and Severe Repetitive Loss grant programs
- Adopting statewide, regional, and local population and water demand projections for the state and regional water planning processes
- Authorizing the issuance of all TWDB bonds
- Providing policy direction for the agency

C. How is the chair selected?

The chair is appointed by and serves at the will of the Governor (Texas Water Code §6.059[a]).

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

The TWDB is unique in that it is created by Article III, Section 49-c, of the Texas Constitution.

The six members of the Board also serve as the board of directors of the Texas Water Resources Finance Authority (Texas Water Code §20.012).

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2008? In FY 2009?

Texas Water Code §6.060 requires the Board to meet at least once every other month. Currently, the Board meets monthly, usually in Austin, Texas. In FY 2008, there were 11 Board meetings, and in FY 2009, there were 12 Board meetings. The Board typically holds at least one of its monthly meetings each year in a town other than Austin to facilitate attendance at meetings by persons outside the Austin area.

F. What type of training do members of your agency's policymaking body receive?

The TWDB staff provides new Board members with the following training required by Texas Water Code §6.062:

- Legislation that created the TWDB
- Programs operated by the TWDB
- Role and functions of the Board
- Rules of the TWDB, with an emphasis on the rules that relate to disciplinary and investigatory authority
- Current budget for the TWDB
- Results of the most recent formal audit of the TWDB
- Requirements of
 - the open meetings law, Chapter 551, Government Code
 - the public information law, Chapter 552, Government Code
 - the administrative procedure law, Chapter 2001, Government Code
 - other laws relating to public officials, including conflict of interest laws
- Any applicable ethics policies adopted by the board or the Texas Ethics Commission

The TWDB staff members also provide the Board with information regarding the agency's operating guidelines, procedures, strategic planning, performance measures, information on water resources planning and financial assistance project status, and current legislative appropriations and legislation.

Board members complete the training required by the Open Meetings Act (Texas Government Code §551.005) and Public Information Act (Texas Government Code §552.012) within 90 days of taking office. Board members are also required by the Public Funds Investment Act to complete an investment training session within six months of their appointment to office (Texas Government Code §2256.007). This may be accomplished through an investment training video approved by the Texas Higher Education Coordinating Board.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

The designation of duties for the Executive Administrator and the Board are found throughout the statutes relating to the TWDB and rules promulgated by the TWDB. Texas Water Code, Chapter 6, provides for delineation of these duties by stating specific duties of the Executive Administrator and the Board. The Executive Administrator is authorized to propose rules to the Board (§6.101), and the Board is responsible for adopting rules. The Executive Administrator is responsible for managing the administrative affairs of the TWDB under the general supervision and direction of the Board (§§6.181, 16.011); the Board approves appropriations requests to the legislature (§6.1011), which are prepared by the Executive Administrator. The Executive Administrator employs personnel, and, with approval of the Board, organizes and reorganizes the administrative sections and divisions of the agency (§§6.184, 16.011); and the Executive Administrator negotiates contracts, and, with the consent of the Board, enters into contracts (§6.190).

Chapters 15, 16, and 17 of the Texas Water Code also define various roles and responsibilities for the Executive Administrator and the Board. For example, the Executive Administrator should gather technical data and provide technical assistance to political subdivisions and to regional water planning groups in the development of regional water plans. The Board has final approval over the regional and state water plans. The Executive Administrator must provide a technical review of any applications for financial assistance; the Board retains the right to authorize such assistance.

Chapters 20, 26, 35, 36, Texas Water Code and §§487.054, 490B.003, 775.002, and 1233.051 of the Government Code describe additional duties of the Board and the Executive Administrator.

The Board is required to develop and implement policies clearly separating the policy-making responsibilities of the Board from the management responsibilities of the Executive Administrator and TWDB staff (Texas Water Code §6.111). The Executive Administrator is authorized by statute to manage the administrative affairs of the TWDB, subject to the Texas Water Code and other laws and under the Board's general supervision and direction. In some cases, the Board has delineated the Executive Administrator's management responsibilities. In other cases the Board has provided its approval or consent to certain actions within certain parameters and provided authority to the Executive Administrator to carry out the functions of the Board within those parameters. Below is a summary of the powers and responsibilities delegated by the Board to the Executive Administrator via Resolution or Minute Order.

Board's Policy and Executive Administrator's Management Responsibilities (Board Resolution 02-20)

The Executive Administrator's management responsibilities are

- to develop and implement policies and procedures that govern the internal management and organization of the agency, employ and discharge personnel as necessary for the efficient operation of the agency, and organize and reorganize the administrative sections and divisions of the agency without further Board action;
- to determine and oversee the responsibilities of each administrative division of the agency and its staff in carrying out the authority, duties, and functions required of the agency by law;
- to negotiate all contracts for the Board and execute certain contracts as specified in past and future resolutions of the Board;
- to recommend rules or actions to the Board on any issue;
- to make recommendations to the Board regarding the agency's legislative budget request and manage the fiscal affairs of the agency;
- to maintain a complaint file on each written complaint filed with the Board and take other required actions under Texas Water Code §6.154 and §6.155;
- to prepare information of public interest describing functions of the Board and complaint procedures;
- to conduct all technical studies and provide technical assistance required of the agency by statute;
- to prepare all statutorily required legislative reports and submit all required legislative reports except those listed in this resolution as requiring Board approval; and
- to report to the Bond Review Board on performance of loans as required by Texas Water Code §17.179.

The Board's policy-making responsibilities are

- to appoint a person to serve as Executive Administrator;
- to adopt rules necessary and advisable to carry out the powers and duties of the Board;

- to approve loans and grants unless specifically delegated by Board rule to the Executive Administrator;
- to approve regional water plans and the state water plan;
- to approve all contracts that are not delegated by specific Board action to the Executive Administrator;
- to examine and approve budget recommendations that are to be transmitted to the legislature (the Legislative Appropriations Request);
- to approve the following reports to the legislature: the agency's strategic plan and biennial reports in writing to the Governor and legislature on the activities of the TWDB and its recommendations for necessary and desirable legislation;
- to take all other actions specifically required by law;
- to adopt population and water demand projections for regional and state water plans;
- to rule on petitions relating to the reasonableness of adopted groundwater desired future conditions; and
- to designate river basin boundaries in the state.

Contracts

The Board has delegated signature authority to the Executive Administrator (Resolution 02-95).

- The Executive Administrator has the authority to execute the following contracts without further Board approval:
 - all receivable contracts of the TWDB;
 - all payable contracts (including purchase requisitions) of the TWDB, other than financial assistance contracts or those that by law require Board action, in amounts of \$250,000 or less, including amendments that do not increase the total commitment to greater than \$250,000;
 - all subordinate contracts of the TWDB needed to support master agreements or joint funding agreements between the TWDB and the U.S. Government if the master agreements or joint funding agreements have been previously approved by the TWDB; and
 - all amendments of payable contracts of the TWDB previously approved by the Board, if required, which do not increase the TWDB's monetary obligation.
- Board approval is required for the Executive Administrator to sign
 - payable contracts over \$250,000; and
 - all master agreements or joint funding agreements of the TWDB with the U.S. Government concerning TWDB financial participation in facilities.
- The Executive Administrator may delegate his delegated signature authority to any Deputy Executive Administrator.
- The Executive Administrator must provide the Board members with an itemized monthly list of all contracts executed during the month with a brief description of work to be performed.

The Executive Administrator has delegated signature authority to the Deputy Executive Administrators of up to \$25,000 by Memorandum of September 1, 2008.

Financial Assistance Responsibilities (Board Resolution 03-20)

On February 19, 2003, the Board assigned certain duties to the Executive Administrator that were previously delegated to the Development Fund Manager.

- The Executive Administrator may execute necessary documents for financial assistance closings (Minute Order of May 16, 1996; Memorandum to the members of the Board of April 29, 1996) that

include

- consent to the issuance of additional bonds, if certain criteria are met;
- a change in paying agents;
- escrow releases; and
- modification of debt service schedules that do not negatively impact the TWDB's portfolio.
- The Executive Administrator may perform bond redemption and prepayment functions
 - to execute necessary documents regarding the Board's waiver of the requirement to publish notice of redemption for bonds when the Board is the sole bondholder and has received timely notice of redemption (Resolution 99-60)¹;
 - to deposit to the credit of the Financial Assistance Account or the Economically Distressed Areas Program account all prepayments for financial assistance from those accounts (Resolution 99-61); and
 - to execute a Release of Lien at the request of a water supply corporation or a private entity when debt that is secured by the liens is being paid in full (Resolution 99-62).
- On February 19, 2003, the Board authorized the amendment of the following rules to assign duties to the Executive Administrator regarding setting interest rates for loans, recommending actions on applications for financial assistance, monitoring the conduct of construction, and approving the release of construction funds (31 Tex. Admin. Code):
 - §363.11—schedule a pre-application conference;
 - §363.33—set interest rates for loans and purchase of TWDB interest in state participation projects;
 - §§363.42 and 363.931—accept escrow account statements related to a bond resolution or ordinance;
 - §363.1017—consent to the annual payment of administrative cost recovery fees for the State Participation Program;
 - §367.44—set and extend interest rates for loans from the agricultural trust fund;
 - §367.45—source for guidelines with which applications for agricultural loans must be consistent;
 - §371.52—set and extend interest rates for loans from the Drinking Water State Revolving Fund;
 - §371.71—accept escrow account statements related to a bond resolution or ordinance;
 - §375.52 and 375.222—set and extend interest rates for loans from the Clean Water State Revolving Fund;
 - §375.71—accept escrow account statements related to a bond resolution or ordinance;
 - §382.5 (now §363.1205)—set interest rates for loans from the Water Infrastructure Fund; and
 - §384.5—set and extend interest rates for loans from the Rural Water Assistance Fund.

In addition to the foregoing, the Board has established an Audit Committee and Finance Committee, each with three members of the Board. Each committee has adopted a "Responsibility Statement" governing its responsibilities. The Audit Committee provides oversight of financial reporting practices, auditing, and internal controls. The Audit Committee may meet at any time but generally meets quarterly. The Finance Committee serves as an oversight committee to the Board to advise the Board on the sale of Texas Water Development bonds and selection of a financial advisor and bond counsel. The committee also advises the

¹Texas Water Resources Authority (TWRFA) Resolution 99-4 authorizes the Development Fund Manager to execute documents to give effect to TWRFA's waiver of notice, identical to the Board's waiver in Board Resolution 99-60. Although TWRFA met in February 2003, it did not assign the delegation of authority from the Development Fund Manager to the Executive Administrator.

Executive Administrator on investing Development Fund monies and disbursement of fund monies. The Finance Committee meets monthly. Reports and recommendations are made from each committee to the full Board for consideration and/or action.

In addition, the agency has general administrative and human resources policies and procedures.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

Monthly

- Financial assistance programs performance report regarding loan and grant commitment activity
- Report relating to the Economically Distressed Areas Program
- Contract status report regarding the current status of pending contracts that are under development and executed contracts that have been previously approved by the Board
- Briefing and discussion on possible Development Fund activity
- Briefing and discussion on drought conditions in Texas

Quarterly

- Briefing and discussion on the activities of Internal Audit, including the status of outstanding audit issues
- Briefing and discussion on the quarterly investment report
- Briefing and discussion on fiscal year quarterly financial statements, budget reports, external monitoring, and performance measures

Annually

- State revolving fund capacity analysis
- Annual financial report, strategic plan, and other agency reports required by statute

Periodic Briefings

- Briefing and discussion concerning the legislative session, including bills filed and legislation recommended by the agency (as appropriate, primarily immediately preceding and during the legislative sessions)
- Implementation status and activities of agency programs

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

Texas Water Code §6.105 requires the Board to develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under its jurisdiction. The Board has adopted rules governing public participation (31 Tex. Admin. Code §353.4) addressing the administration of oaths, the order of presentation, the ability of the Board to limit or exclude cumulative or repetitious presentations, and any filings of briefs or other written statements. If members of the public, including representatives of political subdivisions, choose to provide written comments on items before the Board, the comments are submitted to the Board before they are considered. Additionally, the TWDB notifies any person who has previously informed the Executive Administrator of an interest in any agenda item (31 Tex. Admin. Code §353.12).

The Board has also adopted rules for rulemaking public hearings before the Board (31 Tex. Admin Code §353 [d]). Public comments on rules are summarized for Board members before they are asked to adopt such rules, and specific language is adopted by the Board to address these public comments. Rule hearings also may be held at the discretion of the TWDB, or upon specific public request, to allow for public input on proposed rules for adoption.

Statutory provisions regarding water planning (Texas Water Code §§16.051 and 16.053), groundwater management plans (Texas Water Code §36.1071 and §36.1072), and approval of desired future conditions (Texas Water Code §36.108) require public input. This information is then forwarded to the TWDB and presented to the Board for its consideration.

Notice is provided to political subdivisions relating to various planning grant applications (31 Tex. Admin. Code, Chapter 355) and public hearings are conducted to review the Intended Use Plans and priority ranking systems for the state revolving funds. The Board also holds public hearings or solicits input to consider adopting and approving the Clean Water and Drinking Water state revolving funds Intended Use Plans (31 Tex. Admin. Code §371.11 and §375.11).

The Executive Administrator may hold meetings with various members of the public to discuss any business of the TWDB and may convey this information to the Board. The TWDB staff also interacts directly with the public on a daily basis and provides public input to the Board on relevant issues. Both the Board and the Executive Administrator encourage staff to obtain input from customers and stakeholders regarding decisions pending before the agency.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

Texas Water Development Board Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Finance Committee	Three members of the Board; appointed by the Board chairman	Guides/advises on policy issues relevant to TWDB finance programs and reviews loan and grant applications	Texas Water Code §6.014
Audit Committee	Three members of the Board; appointed by the Board chairman	Provides oversight in materials relating to financial reporting, auditing, and internal control	Texas Water Code §6.014