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AGENDA ITEM MEMO

BOARD MEETING DATE: January 22, 2026

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator
Georgia Sanchez, Chief Financial Officer
Ashley Harden, General Counsel

FROM: Sam Marie Hermitte, Assistant Deputy Executive Administrator, Water Science and Conservation

SUBJECT: Proposed rulemaking for 31 TAC Chapter 378 related to Outdoor Warning Siren Systems

ACTION REQUESTED

Consider authorizing the publication of proposed new 31 Texas Administrative Code (TAC) Chapter 378.

BACKGROUND

In response to the devastating July 2025 floods, the Texas Legislature passed several bills aimed at improving Texas' preparedness for future flood events, including Senate Bill 3 (SB 3), relating to outdoor warning sirens in flash flood-prone areas. Governor Abbott signed SB 3 into law on September 5, 2025.

SB 3 charges the Texas Water Development Board (TWDB) with identifying flash flood-prone areas within the 30 counties included in the disaster declaration issued by the Governor in July 2025 that have a history of consistent or severe flooding and warrant outdoor warning sirens. The bill requires the appropriate municipality or county within those areas identified by the TWDB to install, maintain, and operate an outdoor warning siren system. Such systems are defined to include all components essential to the system's functionality.

Additionally, the TWDB must facilitate the development of best management practices and guidance for the operation of outdoor warning sirens.

KEY ISSUES

SB 3 requires the TWDB to develop rules relating to implementation of the bill's requirements. The TWDB proposes adopting a new Chapter 378 related to outdoor warning

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siren systems. This new chapter will outline processes and procedures for the TWDB to complete the two main tasks assigned to the TWDB by SB 3.

First, the proposed rules will establish a procedure by which the TWDB will identify flash flood-prone areas with a history of consistent or severe flooding that warrant an outdoor warning siren. The Executive Administrator would bring a recommendation for areas identified using this procedure to the Board for consideration.

Second, the proposed rules will establish a procedure by which the TWDB will facilitate the development of best management practices and guidance related to the installation, operation, and maintenance of outdoor warning siren systems.

RECOMMENDATION

The Executive Administrator recommends authorizing the publication of 31 TAC Chapter 378 for public comment to implement the requirements of SB 3.

Attachments:

1. Proposed rulemaking to be filed with *Texas Register*

The Texas Water Development Board (TWDB) proposes new 31 Texas Administrative Code (TAC) §§378.1-378.3 relating to outdoor warning siren systems.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED AMENDMENT.

This rulemaking implements relevant provisions of Senate Bill 3, 89th Second Called Session (SB 3). SB 3 (codified as Texas Water Code, Chapter 16, Subchapter M) tasks the TWDB with two main responsibilities related to outdoor warning siren systems in flash flood-prone areas. The first task is to identify each area within the 30 counties included in the governor's July 2025 flood disaster declaration that has a history of consistent or severe flooding and warrants the installation, maintenance, and operation of one or more outdoor warning sirens. Second, the TWDB must facilitate development of best management practices and guidance for the operation of an outdoor warning siren in a flash flood-prone area of the state, including related to backup power sources.

SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

Section 378.1. Definitions.

This section provides for the definitions to be used in this Chapter. Both "Flash flood-prone area" and "outdoor warning siren" are proposed to be defined in the same manner as those terms are defined in Texas Water Code §16.501, as passed in SB 3. The TWDB also proposes to include definitions of "executive administrator" and "TWDB" for clarity.

Section 378.2. Identification of Flash Flood-Prone Areas.

This section describes the process by which the TWDB will identify flash flood-prone areas within the July 2025 flood disaster declaration. The TWDB proposes to include a process whereby the Executive Administrator will develop a recommendation and then propose the recommendation for the Board's consideration in an open meeting.

Section 378.3. Best Management Practices and Guidance.

This section provides that the TWDB will facilitate development of best management practices and guidance for outdoor warning sirens. Texas Water Code §16.502 requires certain governmental entities to install, maintain, and operate outdoor warning sirens in accordance with the guidance developed by the TWDB. The TWDB will develop the specific details of the best management practices and guidance in a separate guidance document. As provided in Texas Water Code §16.502, the TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502, related to the installation of outdoor warning sirens.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS (Texas Government Code §2001.024(a)(4))

Georgia Sanchez, Chief Financial Officer, has determined that there will be no fiscal implications for state or local governments as a result of the proposed rulemaking. For the first five years these rules are in effect, there is no expected additional cost to state or local governments resulting from their administration.

These rules are not expected to result in reductions in costs to either state or local governments. There is no change in costs for state or local governments imposed by this rule because the requirements included are imposed by statute, not this rule. These rules are not expected to have any impact on state or local revenues. The rules do not require any increase in expenditures for state or local governments as a result of administering these rules. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code, §2001.0045 to repeal a rule does not apply. Furthermore, the requirement in §2001.0045 does not apply because these are necessary to implement legislation.

Any costs local governmental entities may incur to meet the requirements of installing, maintaining, or operating outdoor warning sirens are imposed by the requirements of the statute.

The TWDB invites public comment regarding this fiscal note. Written comments on the fiscal note may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

PUBLIC BENEFITS AND COSTS (Texas Government Code §2001.024(a)(5))

Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the public will benefit from the rulemaking as it implements SB 3 and provides standards for certain local governments to follow when installing, maintaining and operating outdoor warning sirens in flash flood-prone areas. Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the rules will not impose an economic cost on persons required to comply with the rule as these requirements are imposed by statute.

ECONOMIC AND LOCAL EMPLOYMENT IMPACT STATEMENT (Texas Government Code §§2001.022, 2006.002); REGULATORY FLEXIBILITY ANALYSIS (Texas Government Code §2006.002)

The TWDB has determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect because it will impose no new requirements on local economies. The TWDB also has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of enforcing this rulemaking. The TWDB also has determined that there is no anticipated economic cost to

persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a “major environmental rule” as defined in the Administrative Procedure Act. A “major environmental rule” is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or 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 intent of the rulemaking is to implement legislation.

Even if the proposed rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) 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; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) 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; and (4) is not proposed solely under the general powers of the agency, but Texas Water Code §16.502. Therefore, this proposed rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

The TWDB invites public comment regarding this 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 Submission of Comments section of this preamble.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this proposed rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to implement SB 3. The proposed rule would substantially advance this stated purpose by providing standards for certain local governments to follow when installing, maintaining, and operating outdoor warning sirens in flash flood-prone areas.

The TWDB’s analysis indicates that Texas Government Code, Chapter 2007 does not apply to this proposed rule because this is an action that is reasonably taken to fulfill an obligation

mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that is charged with implementing SB 3.

Nevertheless, the TWDB further evaluated this proposed rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule requires certain governmental entities to install outdoor warning sirens without burdening or restricting or limiting a landowner's right to property and reducing its value by 25% or more. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

GOVERNMENT GROWTH IMPACT STATEMENT (Texas Government Code §2001.0221)

The TWDB reviewed the proposed rulemaking in light of the government growth impact statement requirements of Texas Government Code §2001.0221 and has determined, for the first five years the proposed rule would be in effect, the proposed rule will not: (1) create or eliminate a government program; (2) require the creation of new employee positions or the elimination of existing employee positions; (3) require an increase or decrease in future legislative appropriations to the agency; (4) require an increase or decrease in fees paid to the agency; (5) create a new regulation; (6) expand, limit, or repeal an existing regulation; (7) increase or decrease the number of individuals subject to the rule's applicability; or (8) positively or adversely affect this state's economy.

The requirements included in this rulemaking are imposed by state statute, not the rules themselves.

SUBMISSION OF COMMENTS (Texas Government Code §2001.024(a)(7))

Written comments on the proposed rulemaking may be submitted by mail to Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by email to rulescomments@twdb.texas.gov, or by fax to (512) 475-2053. If sent via email, all public comments should be sent directly to rulescomments@twdb.texas.gov. Please do not submit comments through any third-party forms or websites. Receipt of third-party submissions cannot be guaranteed. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the Texas Register. Include "Chapter 378" in the subject line of any comments submitted.

The best management practices and guidance will be posted separately on the TWDB website for public comment at a later date.

STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is proposed under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §16.502. This amendment is proposed under the authority of Senate Bill 3, passed during the 89th Second Called Texas Legislative Session.

This rulemaking affects Water Code, Chapter 16, Subchapter M.

<rule>

Chapter 378. Outdoor Warning Siren Systems.

§378.1. Definitions.

(1) Executive Administrator—The executive administrator of the TWDB or a designated representative.

(2) Flash flood-prone area—An area of this state included in the disaster declaration issued by the governor under Section 418.014, Government Code, in response to the July 2025 Hill Country floods.

(3) Outdoor warning siren—A system that produces a sound designed to alert a person who is outdoors of an imminent disaster and encourage that person to immediately seek shelter or move to higher ground and includes sensors, gages, and all other components essential to the function of the system.

(4) TWDB—Texas Water Development Board.

§378.2. Identification of Flash Flood-Prone Areas.

(a) The Executive Administrator will identify each area in a flash flood-prone area that:

(1) has a history of consistent or severe flooding; and

(2) based on the history under Subdivision (1) and any other factor the TWDB considers relevant, warrants the installation, maintenance, and operation of one or more outdoor warning sirens.

(b) The Executive Administrator will develop a recommended identification of the areas required in subsection (a) and then present the recommendation to the governing body of the TWDB for consideration in an open meeting.

§378.3. Best Management Practices and Guidance.

(a) The TWDB will facilitate the development of best management practices and guidance:

_____ (1) for the operation of an outdoor warning siren in a flash flood-prone area of this state; and

_____ (2) for an outdoor warning siren installed, maintained, or operated in a flash flood-prone area, including guidance that an outdoor warning siren be equipped with a backup power source that is different from the siren's primary power source.

_____ (b) Each municipality, county, or other governmental entity required to install, maintain, and operate one or more outdoor warning sirens in accordance with Texas Water Code §16.502(c) must do so in accordance with the TWDB guidance on outdoor warning siren systems.

_____ (c) The TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502.