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AGENDA ITEM MEMO

BOARD MEETING DATE: October 17, 2024

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator
Ashley Harden, General Counsel
As to certain fiscal elements: Rebecca Trevino, Chief Financial Officer

FROM: Richard Wade, Deputy Executive Administrator

SUBJECT: Proposed rulemaking for 31 TAC Chapter 353 related to Texas Geographic Information Systems

ACTION REQUESTED

Consider authorizing publication of proposed amendments to 31 Texas Administrative Code (TAC) Chapter 353, relating to Geographic Information Systems (GIS).

BACKGROUND

GIS proposes to amend various sections of 31 TAC Chapter 353, Subchapter G in order to implement House Bill (HB) 2489 passed during the 88th Texas Legislative Session. HB 2489 renamed the "Texas Natural Resources Information Office (TNRIS)" to the "Texas Geographic Information Office (TxGIO)." The purpose of this bill was to better reflect the core mission and concept of the office, which these proposed rules would implement. The proposed changes amend the header for Subchapter G and text throughout the subchapter to reflect the new name. Additionally, GIS proposes to make various changes to update terminology and procedures to match current agency and industry practice. GIS also proposes to make non-substantive changes for grammatical or clarity purposes.

KEY ISSUES

The purpose of this bill was to better reflect the core mission and concept of the office, which these proposed rules would implement. The proposed changes amend the header for Subchapter G and text throughout the subchapter to reflect the new name.

RECOMMENDATION

The Executive Administrator recommends authorizing the publication of proposed amendments to 31 TAC Chapter 353 and renaming of Chapter 353, Subchapter G.

Attachment:

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

Our Mission

Leading the state's efforts
in ensuring a secure
water future for Texas

Board Members

Brooke T. Paup, Chairwoman | L'Oreal Stepney, P.E., Board Member | Tonya R. Miller, Board Member
Bryan McMath, Executive Administrator

The Texas Water Development Board (TWDB) proposes an amendment to 31 Texas Administrative Code (TAC) §§353.100 - 353.103.

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

The TWDB proposes to amend various sections of 31 TAC Chapter 353, Subchapter G in order to implement House Bill (HB) 2489 passed during the 88th Texas Legislative Session. HB 2489 renamed the “Texas Natural Resources Information Office (TNRIS)” to the “Texas Geographic Information Office (TxGIO).” The purpose of this bill was to better reflect the core mission and concept of the office, which these proposed rules would implement. The proposed changes amend the header for Subchapter G and text throughout the subchapter to reflect the new name.

Additionally, the TWDB proposes to make various changes to update terminology and procedures to match current agency and industry practice. The TWDB also proposes to make non-substantive changes for grammatical or clarity purposes.

SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

The header to Subchapter G is redesignated as “Texas Geographic Information Office (TxGIO)” to reflect the name change from HB 2489.

Section 353.100. Partnerships with Value-Added Service Providers.

Terminology throughout this rule is updated from “Texas Natural Resources Information System” or “TNRIS” to “Texas Geographic Information Office” or “TxGIO.” The TWDB also proposes to amend the language related to establishing value-added partnerships and the associated written agreements to align with agency practice. The TWDB proposes to add detail in rule related to these partnerships, as required by Texas Water Code §16.021(b). The changes also include non-substantive grammatical changes.

Section 353.101. Other Partnerships.

Terminology throughout this rule is updated from “TNRIS” to “TxGIO.”

Section 353.102. Definitions.

Terminology throughout this rule is updated from “Texas Natural Resources Information System” or “TNRIS” to “Texas Geographic Information Office” or “TxGIO.”

The TWDB proposes to replace the definition of “High priority imagery and datasets (HPIDS)” with a new definition for “Strategic Mapping (StratMap) datasets” to align with the current agency and industry naming convention and practice. The TWDB proposes to add a definition for “Texas Geographic Information Office” in order to establish “TxGIO” as the abbreviation and to clarify that this same entity was formerly known as “Texas Natural Resources Information System” or “TNRIS.” Finally, the TWDB proposes to amend the definition of “State Agency” to include that institutions of higher education qualify as state agencies under the rule. The changes also include non-substantive grammatical changes.

Section 353. 103. State Agency Geographic Information Standards.

Terminology throughout this rule is updated from “Texas Natural Resources Information System” or “TNRIS” to “Texas Geographic Information Office” or “TxGIO.” Additionally, terminology is updated from “HPIDS datasets” to “StratMap datasets” to reflect the newly defined terms. The changes also include non-substantive grammatical changes.

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

Ms. Rebecca Trevino, 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 because the rule does not change any substantive requirements of other entities. 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. As discussed in the fiscal note for HB 2489, it is assumed that any costs associated with the name change for TxGIO can be absorbed using existing resources.

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 rules are necessary to implement legislation (HB 2489 (88R)).

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))

Ms. Rebecca Trevino 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 clarifies requirements for TxGIO partnerships and better reflects the core mission and concept of the office, which could lead to additional funding opportunities. Ms. Rebecca Trevino 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 involvement with TxGIO is voluntary and the changes 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 clarify requirements for TxGIO partnerships and better reflect the core mission and concept of the office.

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 rather Texas Water Code § 16.021. 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 clarify requirements for TxGIO partnerships and better reflect the core mission and concept of the office. The proposed rule would substantially advance this stated purpose by aligning terminology and procedure with agency practice and by implementing HB 2489 (88R).

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 houses the Texas Geographic Information Office.

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 establishes procedures and information related to the Texas Geographic Information Office. 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.

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. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the Texas Register. Include "Chapter 353" in the subject line of any comments submitted.

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 §16.021.

This rulemaking affects Texas Water Code, Chapter 16.

<rule>

SUBCHAPTER G. TEXAS GEOGRAPHIC [NATURAL RESOURCES] INFORMATION OFFICE (TxGIO) [SYSTEM (TNRIS)].

§353.100. Partnerships with Value-Added Service Providers.

(a) The executive administrator will [shall] identify value-added services that relate to the goals and responsibilities of the Texas Geographic [Natural Resources] Information Office (TxGIO) [System (TNRIS)]. For those services identified, the executive administrator may enter partnerships with service providers [to post their contact information on the TNRIS web site].

[(b) Entities that provide services identified by the executive administrator shall request the partnership in writing. The written request shall include:

- (1) the name and address of the entity and a contact person;
- (2) the services performed by the entity;
- (3) the number of years the entity has performed those services; and
- (4) the internet address the entity would like the board to use as a hyperlink.]

(b) [(c)] The executive administrator will [shall] determine if the entity submitting a written request to form a partnership is an entity that provides services identified in subsection (a) of this section. If so, the executive administrator may [shall] enter a written agreement with the entity to form a partnership [to post its name, contact information, and hyperlink on the TNRIS web site]. [The written agreement shall only be for one year but is renewable upon request.]

(c) [(d)] The executive administrator must [shall] develop and implement, with board approval, a charge schedule for entities entering partnerships with the executive administrator [to post their information on the TNRIS web site]. [At least once every two years, the executive administrator shall review and obtain board approval of the charge schedule.] Monies collected from entities entering partnerships with the executive administrator must [shall] be used to improve access to TxGIO [TNRIS] information.

(d) The written agreement must be consistent with the agency's contracting policies and procedures and ethics policy.

(e) Partnerships may include:

(1) those with non-profit organizations to enhance services such as event collaboration and funding, data and service delivery, grant and charitable funding opportunities, resource sharing, advocacy, and emergency response; and

(2) those with for-profit companies for data acquisition, software development, software purchase, geospatial support and services, data storage, infrastructure development, and emergency response.

§353.101 Other Partnerships

The board may authorize the executive administrator to enter other partnerships, on behalf of TxGIO [TNRIS] in order to:

(1) accept gifts and grants for TxGIO [TNRIS] through a nonprofit corporation. The acceptance of any gift or grant will be in compliance with Subchapter F of this chapter, (relating to The Relationship Between the Board and Donors); and

(2) accept volunteer labor.

§353.102 Definitions

The following words and terms have the following meanings when used in this chapter, unless the context clearly indicates otherwise.

(1) Geographic information system (GIS)--A system of computer hardware, software, and procedures used to store, analyze, and display geographic data and related tabular data in a geographic context to solve complex planning and management problems in a wide variety of applications.

(2) Geographic dataset--Digital data that [which] illustrate and describe some characteristic of the earth's surface or a region near the earth's surface. A geographic dataset employs a defined, earth-based coordinate system that [which] allows its use in a geographic information system. For the purposes of this rule, geospatial has the same meaning as geographic.

(3) Geographic dataset enhancement--Substantial alteration of a geographic dataset that [which] increases its usefulness through the addition or modification of attribute (tabular) data fields, improvements in spatial accuracy, or extension of geographic coverage.

(4) Geospatial metadata--A description of the characteristics of a geographic dataset recorded in a standard format. Characteristics include data content, quality, purpose, condition, format, spatial coordinate system, availability, etc. The Federal Geographic Data Committee has defined a formal content standard for digital geospatial metadata for use by federal agencies.

(5) GIS map product--A geographic representation, in paper or electronic format, displaying features from one or more geographic datasets. Small scale images that are clearly intended only for graphic illustration within a larger publication are not considered to be GIS map products.

(6) [High priority imagery and datasets (HPIDS)--HPIDS are geographic datasets identified by the state Geographic Information Officer as high priority for acquisition or enhancement, developed or acquired by state agencies, and intended for sharing and integration into a single statewide compilation.]

[(7)] State Agency--A department, commission, board, office, council, authority, or other agency, including [other than] an institution of higher education, in the executive or judicial branch of state government, that is created by the constitution or a statute of this state.

~~(7)~~[(8)] State Geographic Information Officer (GIO)--The official coordinating, establishing, supporting, and monitoring geographic information technology in Texas pursuant to Water Code §16.021(c). The GIO serves as deputy executive administrator [director] of the Texas

Geographic [Natural Resources] Information Office (TxGIO) [System (TNRIS)] within the Texas Water Development Board.

(8) Strategic Mapping (StratMap) datasets--Geographic datasets identified by the state Geographic Information Officer as high priority for acquisition or enhancement, developed or acquired by state agencies, including institutions of higher education, or other Texas government entities, and intended for sharing and integration into a single statewide compilation.

(9) Texas Geographic Information Office--TxGIO, formerly known as Texas Natural Resources Information System (TNRIS).

§353.103 State Agency Geographic Information Standards

(a) Applicability. All users and developers of geographic datasets and geographic information systems in state agencies must comply with the technical standards specified in this section. Activities conducted by a registered professional land surveyor while engaged in the practice of professional surveying, as defined in the Professional Land Surveying Practices Act (Texas Occupations Code, Chapter 1071) are exempt from these standards.

(b) Implementation guidance. Pursuant to Water Code §16.021(c), the GIO provides guidance to the Executive Administrator of the Texas Water Development Board and to the Department of Information Resources (the department). The guidance provided by the GIO to the department relates to technology standards developed by the department for geographic datasets pursuant to Water Code §16.021(e)(4).

(c) Geographic Information Standards.

(1) Geographic dataset acquisition and development.

(A) Standard. An agency planning to acquire, develop, or enhance a geographic dataset that may correspond to a StratMap [an HPIDS] dataset must [shall] coordinate such activity with the GIO to determine potential use of the StratMap contracts [HPIDS master contract].

(B) Procurement of public domain geographic datasets. An agency that procures a copy of a federal or other public domain geographic dataset must [shall] make the dataset available to TxGIO [the Texas Natural Resources Information System (TNRIS)]. TxGIO [TNRIS] will make these datasets available to other agencies, institutions of higher education, and to the public.

(2) Geographic dataset exchange: Data format. An agency that originates or adds data content to a non-proprietary geographic dataset and distributes the dataset to another state agency, institution of higher education, or the public must make the dataset available in at least one digital format that is recognized by the most commonly used geographic information systems. This requirement does not preclude the agency from offering the dataset in other data formats. The GIO provides guidance on acceptable formats for data exchange.

(3) Geographic dataset documentation.

(A) Preparation. An agency must [shall] prepare documentation for each geographic dataset that it both:

(i) originates and/or adds data content to; and

(ii) distributes as a standard product to another state agency, institution of higher education, or the public.

(B) Statement of Purpose. Documentation must include a statement of the purpose or intended use of the dataset and a disclaimer warning against unintended uses of the dataset. If an agency is aware of specific inappropriate uses of the dataset that some users may be inclined to make, the dataset disclaimer must specifically warn against those uses.

(C) Format. This documentation must be in a geospatial metadata format specified by the GIO.

(D) Delivery. In responding to a request for a geographic dataset, an agency must [shall] provide the requestor a copy of the documentation.

(4) GIS map product disclaimer. Any map product, in paper or electronic format, produced using geographic information system technology and intended for official use and/or distribution outside the agency, must include a disclaimer statement advising against inappropriate use. If the nature of the map product is such that a user could incorrectly consider it to be a survey product, the disclaimer must clearly state that the map is not a survey product.