

April 20, 2022

Ms. Jennifer Jones
Executive Director
Sunset Advisory Commission
1501 N. Congress Ave.
Austin, Texas 78701

VIA ELECTRONIC MAIL

RE: Sunset Review of the Texas Water Development Board (TWDB)

Dear Ms. Jones,

The Texas Water Conservation Association (TWCA) appreciates the opportunity to comment on issues presented in the Sunset Report on the Texas Water Development Board.

TWCA is an association of water entities and professionals whose members provide wholesale or retail water and wastewater service to the vast majority of Texans and include river authorities, cities, groundwater conservation districts, water/irrigation/drainage districts, industries, consultants, and individuals interested in Texas water policy. TWCA serves as a leader and advocate for sound water policy in Texas.

Overall, TWCA is a firm supporter of the efforts of TWDB. As acknowledged by the Sunset Staff Report, the Legislature's confidence in TWDB has led to a significant growth in its responsibilities; however, those responsibilities have not come with sufficient resources, straining the Board's workforce and bandwidth to execute all of its functions with the same level of success. We appreciate Sunset staff's thoughtful evaluation of the agency, as successful execution the agency's mission is critical to ensuring safe, secure, and sustainable water for Texas. TWCA offers the following comments on the recommendations in the staff report.

Issue 1: TWDB's Inefficient Review Process Contributes to Project Delays and Increased Costs.

TWCA supports the recommendations in Issue 1. Many TWCA members have accessed and benefitted from financial assistance programs at TWDB. The low-cost, below market interest rates and flexible financing options for water and wastewater infrastructure projects have encouraged small utilities and large regional providers to undertake water and wastewater projects that can take years and even decades to develop and construct. However, the growth in TWDB's number of projects and new responsibilities, together with other factors, such as supply chain disruptions, has led to project delays that can increase costs.

As federal Infrastructure Investment and Jobs Act funds flow through TWDB in the coming years, more than tripling the amount of funds passed through our state revolving funds, having efficient systems to get money into the hands of Texas communities is even more important. Developing appropriate tools to monitor for delays will inform TWDB's management decisions as well as strengthen transparency and communication with water entities inquiring about the status of their projects. Reducing delays in TWDB's financial programs and associated cost-overruns for projects will also save valuable public funds. That said, TWCA believes that proper controls must be in place to prevent defaults on state loans and maintain the integrity of TWDB's programs and encourages TWDB to keep this in mind when identifying ways to streamline its administration of financial assistance programs.

Issue 2: A More Strategic, Comprehensive Evaluation of Programs and Outreach Efforts Would Benefit TWDB and Entities Eligible for Financial Assistance.

TWCA supports the recommendations in Issue 2. TWCA believes that more robust evaluation of how well TWDB's financial programs match the needs of water entities throughout the state could provide important feedback that can be used to improve the financial tools available for water entities, especially for small and rural communities. Similarly, more strategic coordination of outreach efforts could increase the knowledge of TWDB's financial programs, including programs to assist utilities with the application and funding process.

New Issue

TWCA also supports a new issue not addressed by the TWDB Sunset Staff Report: **Clarify that the most recently adopted desired future condition (DFC) is the one to be included in a groundwater conservation district's (GCD's) management plan submitted to TWDB for approval, even if the DFC for that GCD has been determined to be unreasonable.**

As background, to promote joint planning across 100 separate GCDs that manage groundwater across shared aquifers, the state designated 16 groundwater management areas based on major aquifer boundaries. GCDs in each management area work together to plan for the DFC of each aquifer, setting standards for aquifer conditions over the next 50 years. State law requires that each GCD's management plan submitted to TWDB include the DFC. The Water Code also provides for an affected person to appeal the reasonableness of a DFC by filing a petition with the GCD.

However, the statute does not provide any guidance on how the TWDB should evaluate management plans for GCDs whose DFC has been petitioned or determined to be unreasonable. TWCA's proposed clarification would address uncertainty surrounding management plan review by TWDB for a GCD whose DFC is petitioned or determined to be unreasonable until the next joint planning cycle when a new DFC is approved by GCDs in the groundwater management area. A lawsuit and new round of DFC adoptions makes this a timely issue in need of additional guidance to all parties involved.

Ahead of the 87th legislative session, TWCA addressed this issue in its consensus process with more than 150 groundwater stakeholders across a diverse spectrum of water interests. This issue was adopted without objection by the committee and TWCA board and did not receive any opposition during the legislative session. TWDB also raised this as a major issue in its Sunset Self-Evaluation Report.

TWCA greatly appreciates the opportunity to comment on TWDB's Sunset Staff Report. We look forward to continuing to work with the Sunset Commission members, staff, and the Legislature as the process continues.

Respectfully submitted,



Stacey Allison Steinbach, General Manager