



# Texas Water Districts: A General Guide

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Not all water districts in Texas are the same. Though most are subject to the Water Code, they can vary in size, type, services offered, customer policies, and customer base as well as the authority to manage their operations. That's why it's important for customers to have a general understanding of their water district, its obligations to them, and its service area.

If you're a customer, resident, or simply an interested citizen, this guide will give you an overview of Texas water districts. It offers you helpful tips for handling common customer problems and answers a number of related questions.

## Terms We Use

- The term “water districts” (or “districts”) refers to various types of political subdivisions created under general law or by special law.
- The terms “board” and “director” refer to the individual boards and directors that oversee these districts.
- The pronoun “we” refers to the staff of the Texas Commission on Environmental Quality (TCEQ).
- The phrase “TCEQ rules” refers to the regulations found in Title 30 of the Texas Administrative Code (TAC).
- All of the codes mentioned in this guide are Texas statutory codes—for example, the “Water Code” is the Texas Water Code. We do not make reference to any federal or city codes or regulations in this guide.

## The Basics

### What Is a Water District?

A water district is a local governmental entity that provides limited services to its customers and residents, depending on the type of district. See “Types of Districts,” below, to find out more about the services each type of district provides.

### How Are Districts Created?

Through “general law,” a district may be created by the Texas Commission on Environmental Quality (TCEQ) or a county commissioners court. Through “special law,” a district can be either created or altered by an act of the Texas Legislature. In the rest of this guide, you’ll learn how these two ways to create districts differ and how these differences affect customers.

### Who Regulates a District?

Although the Water Code gives the TCEQ a continuing right of supervision over all districts and authorities, we do not control a district’s daily operations. Decisions concerning the daily operation of a district are the responsibility of the district’s board. TCEQ staff helps district board members and their consultants understand the complex and varied laws and regulations under which a district must operate.

Districts must also comply with state and federal regulations before they can engage in various activities. For example, the TCEQ regulates drinking-water quality and wastewater discharges.

# Districts and the Law

## Which Laws Apply to Districts?

To determine which laws apply to a district, you will have to determine how the district was created. Each district is created either through the general-law process or the special-law process.

### ***General Law***

For present purposes, a general law is one in which the terms and conditions apply to every part of the state.

Districts created under general law must follow Chapter 49 of the Texas Water Code as well as the chapter that applies to that specific type of district. These laws describe the powers and duties of each type of district and state the administrative rules that districts must follow.

These districts must also comply with other laws. For example, when holding elections for board positions, a district must follow the Election Code. A district may also have to comply with the Government Code, Health and Safety Code, Local Government Code, Penal Code, and Tax Code, depending on the type of district it is and the powers that it has. See Table 1 for a short list of the laws that may affect a district created by general law.

### ***Special Law***

For present purposes, a special law is a set of rules that is applicable only to a particular place or to a specific individual, corporation, or organization.

Districts created by special law must comply with its enabling legislation—that is, the act that created the district or altered its powers and functions. The enabling legislation will also indicate other laws that the district must follow—for example, by referring to the general laws of water districts, which are found in Chapter 49 of the Water Code. Consequently, you will have to research individual legislative acts to determine all the powers and duties of a special-law district.

## Where Can I Find Copies of These Laws?

### ***General Law***

In most cases, you can find state laws on the Texas State Law Library’s website, <[www.sll.texas.gov](http://www.sll.texas.gov)>. (For laws that affect districts created under general law, click on “Statutes” in the “Law & Legislation” dropdown menu.) State laws may also be found at <[www.statutes.legis.state.tx.us/](http://www.statutes.legis.state.tx.us/)>.

If you don't have access to the internet, try the library that serves your local school, county, city, community college, university, or law school. Many of these libraries offer free internet access to the public.

A community-college, university, or law-school library may also have hard copies of these laws. Use the citations given in Table 1 to look up the law you need.

**Table 1. Finding General-Law Legal References**

<i>Find this general-law topic ...</i>	<i>In ...</i>
TCEQ rules (official version)	Title 30 TAC, at < <a href="http://www.sos.state.tx.us/tac/index.shtml">www.sos.state.tx.us/tac/index.shtml</a> >
Administrative provisions	TWC Chapters 49
Municipal utility district	TWC Chapters 49 and 54
Water control and improvement districts	TWC Chapters 49 and 51
Special utility districts	TWC Chapters 49 and 65
Open Meetings Act	TGC Chapter 551
Public Information Act (Open Records)	TGC Chapter 552
Public Funds Investment Act	TGC Chapter 2256, Subchapter A
Public Funds Collateral Act	TGC Chapter 2257
Contract award (competitive bidding)	TWC Chapter 49
Financial activity levels (audits of districts)	TWC Chapter 49
Taxes	Texas Tax Code
Uniform election dates	TEC Chapter 41
Conflicts of interest	TLGC Chapter 171
Impact fees	TLGC Chapter 395
Eminent domain	TPC Chapter 21; TWC Chapter 49
Rates and fees	16 TAC Chapter 24
Public utilities	16 TAC Chapter 24

**Key**

TAC: Texas Administrative Code

TEC: Texas Election Code

TGC: Texas Government Code

TLGC: Texas Local Government Code

TPC: Texas Property Code

TWC: Texas Water Code

## **Special Law**

If you need to find the enabling legislation for a district created by special law, see if your library has the law books for the legislative session in which the law was passed. You can also search the Legislature's website, <[www.capitol.texas.gov](http://www.capitol.texas.gov)>, for specific legislation from legislative sessions back to 1989. The enabling legislation for many special-law districts can be found in the Special District Local Laws Code, which can be accessed at <[www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us)>.

# **Types of Districts**

Texas has many types of districts. The four most common types of districts that provide services to residential customers are municipal utility districts (MUDs), water control and improvement districts (WCIDs), special utility districts (SUDs), and river authorities.

## **MUDs**

Municipal utility districts provide water, wastewater (sewage), drainage, and other services within the district's boundaries. These other services can include water conservation, irrigation, firefighting, solid-waste (garbage) collection and disposal (including recycling activities), and recreational facilities.

A MUD can require its customers to use its solid-waste services as a condition for receiving its other services. A MUD may provide solid-waste and recycling services through a private company.

MUDs can acquire, develop, or maintain parks or recreational facilities. In certain counties, MUDs may levy taxes to pay for recreational facilities and set and charge user fees.

## **WCIDs**

Water control and improvement districts have broad authority to supply and store water for domestic, commercial, and industrial use; operate sanitary wastewater systems; and provide irrigation, drainage, and water-quality services.

## **SUDs**

Special utility districts provide water, wastewater, and firefighting services, but cannot levy taxes.

## River Authorities

River authorities are districts created by special law that operate major reservoirs and sell untreated water on a wholesale basis. They may have responsibility for flood control, soil conservation, and protecting water quality. Many river authorities also generate hydroelectric power, provide retail water and wastewater services, and develop recreational facilities.

Most river authorities have no authority to levy a tax, but can issue revenue bonds based on the revenues projected from the sale of water or electric power. River authorities often encompass entire river basins, extending into many counties.

## What Districts Can Do

State law gives districts the power to establish the authority, rights, and duties necessary to accomplish the specific purposes for which they are created. The powers of a district created under general law are determined by the type of district it is. The powers of a district created by special law are determined by its enabling legislation. Most districts have the power to:

- incur debt
- levy taxes
- charge for services and adopt rules for those services
- enter into contracts
- obtain easements
- exercise eminent domain

## Incur Debt

Many districts can issue bonds and other forms of debt. The Texas Constitution requires that all debt secured by tax revenues must be approved by district voters. The TCEQ must approve all district bonds, except for those issued by river authorities, or those sold to a state or federal agency.

## Levy Taxes

Not all districts have the power to levy taxes. For example, most river authorities cannot levy a tax. With voter approval, other districts may levy a maintenance tax to cover the costs of operating and maintaining the district's water and sanitary sewer system. The maintenance tax rate authorized by voters cannot be exceeded without additional voter approval.

Districts may also seek voter authorization to issue unlimited tax bonds. In authorizing these bonds, the voters also approve an unlimited debt-service tax to pay off the bonds. After these bonds are issued, the district's board of directors must levy

an annual property tax sufficient to cover the district's outstanding debt. This tax is levied on all property in the district based on appraised value—regardless of the services received by each landowner.

To find out how you can learn more about your district's taxing authority, see "Notice of Tax Rate," toward the end of this guide.

## Charge for Services and Adopt Rules

Districts may adopt rules to govern their methods, terms, and conditions of service. These rules also may address water distribution, water conservation, and the safety and sanitation of sewer systems. Districts must keep their rules on file at their main office.

Persons who violate a district's rules can be subject to penalties. A district has the authority to stop providing its services for nonpayment of an authorized charge. Districts may employ peace officers who can arrest individuals whose actions violate district rules on land owned or controlled by the district. These peace officers can also make arrests to prevent violations of state laws.

## Enter into Contracts

Districts may contract for goods and services. When there is a need to contract for the construction, repair, or purchase of district facilities, a district must seek bids as follows, based on the value of the contract:

- *\$75,000 or more*—advertise the proposed contract and seek competitive bids
- *\$25,000 to \$75,000*—seek written competitive bids from at least three bidders
- *Less than \$25,000*—no need to advertise or seek competitive bids

Competitive-bidding requirements do not apply to contracts for a utility-service operator. State law prohibits districts from considering competitive bids for certain professional services, including the services of engineers, architects, or auditors.

## Obtain Easements

Districts can obtain and use easements to access land owned by another person to install, inspect, repair, or maintain distribution and collection lines.

## Exercise Eminent Domain

Most districts have a limited right of eminent domain, which gives them the power to condemn any land, easement, or other property inside or outside the district's

boundaries when the district needs that property for any district project or purpose—for example, a water, sewer, storm-drainage, flood-drainage, or flood-control project.

## Your District's Directors

### What Do the Directors Do?

The directors are responsible for the business of the district, including any functions that they may have contracted to a general manager, operator, or other party. They also administer and control the financial-management, employment, and purchasing needs of the district. Directors also establish policies for these processes.

### How Are Directors Selected?

The governmental body creating a district usually appoints a temporary board of directors to serve until elections are held. Usually, district voters elect permanent directors. See “Participating in Elections,” toward the end of this guide, for more information about these elections.

Some districts created by special law are governed by a board of directors appointed by a city or other governmental entity (or entities). For example, a river authority's directors may be appointed by the governor, the Texas Water Development Board, or the cities that purchase water from the river authority.

Directors of general-law districts must meet the qualifications for serving on the board as stated in the Water Code. On our website, you can view a chart that describes these qualifications. Go to “Forms, Guides, and Rules for Water Districts,” <[www.tceq.texas.gov/goto/district-rules](http://www.tceq.texas.gov/goto/district-rules)>, and click on “Qualifications Chart for District Directors.”

### How Can I Find Out Who These Directors Are?

Districts must file a registration form (TCEQ-0179) with the TCEQ to identify their directors and key consultants. There are four options to obtain information about district directors:

- Call the district's office and ask for the directors' names, mailing addresses, and telephone numbers.
- Go to the district's office and ask to view the form that has been filed with the TCEQ.
- Ask for a copy of the form. (The district is allowed to charge you a copying charge.)
- Call the TCEQ at 512-239-4691 to obtain this information over the phone.



## **Are These Directors Paid?**

Although directors of general-law districts do not receive a salary, a district's board is entitled to receive fees of office for conducting the affairs of the district. Directors who receive fees of office are also entitled to reimbursement for actual expenses incurred while engaging in district activities. District directors may receive up to \$150 per day for every day that the director actually spends working as a director for the district.

Compensation levels for directors of districts created by special law are usually established by each district's enabling legislation.

Under "Directors' Pay Statements," toward the back of this guide, you can find out how you can learn more about the pay your district's directors receive.

## **Can Directors Be Employed Simultaneously by the District?**

A director may be employed as general manager of the district, although the compensation of a general manager who also serves as a director must be established by the other directors.

## **Can Directors Be Employed Simultaneously by a Developer of the District?**

A director may not be an employee of any developer of property in the district, or of any director, manager, engineer, attorney, or other person providing professional services to the district. Likewise, a director may not be a developer of property in the district or a developer in connection with the district.

In addition, districts are subject to Texas Local Government Code (TLGC), Chapter 171, which regulates conflicts of interest on the board. Based on TLGC, certain persons are disqualified from serving as a district director, and a developer of property in the district is disqualified. Certain relatives, employees, consultants, and parties to specified contracts are also disqualified from serving on the board.

## **Can Directors Be Recalled?**

Texas law does not provide for the recall of district directors. If you are concerned about this or any other state law, contact your state senator, your state representative, or both.

## **May I Attend the Directors' Meetings?**

Generally, directors' meetings are open to the public. Contact your district's office to find out when and where the directors meet. See "Attending Board Meetings," below, to learn more about your right to attend these meetings.

## **Billing and Rates**

Direct your questions or complaints about your bill or rates to the district's general manager, operator, or office staff. Make a written note of whom you spoke to, when, and their response. If you can't get your concerns resolved by working with district staff, you may approach your district's board of directors.

If you have additional questions regarding water rates or billing, please contact the Public Utility Commission (PUC) by phone at 512-936-7405, or by email at [water@puc.texas.gov](mailto:water@puc.texas.gov). You can also file a complaint with the PUC to address your concerns.

## **What Can I Do If I Pay Taxes but the District Won't Serve My Property?**

Paying taxes is not always enough to ensure that you get service. Even if the district has enough unreserved capacity available, you may still need to pay a charge to hook up to the district's facilities, in addition to paying your property taxes. However, if your district does not have enough capacity to serve your property, the TCEQ cannot compel your directors to build a new plant just to serve your property. You should approach your board to inquire about your district's plans for future capacity.

Although the nearest water or sewer line may be near the edge of your property, you must pay the cost of extending a line to the point where you want your services provided. If this is an issue for you, you should have a discussion with your district about the services needed to accommodate your current and future needs.

## **Must I Connect to the District's Sewer System?**

Generally, you do not have to connect to the district's sewer system. However, districts in some areas of the state can require you to do so. These districts are in counties in which a political subdivision has received financial assistance for an economically distressed area. These areas could be anywhere in the state.

## **Can I Get My Lot Out of the District?**

You may not withdraw your lot from the district, as long as the district has issued tax bonds in the past—even if those bonds have already been paid off. State law is very

strict in this regard. However, if no election has been held authorizing the issuance of bonds payable in whole or in part from taxes, directors may call a hearing to consider the question of excluding your land from the district.

## Helping Your District Succeed

A district's success is determined by the combined efforts of its governing board, local residents, and its customers. The directors are responsible for defining the district's objectives, setting policy, and providing management oversight. The directors should hire, evaluate, and retain knowledgeable and highly skilled employees and consultants to help in the district's operations and management.

As a customer or resident, you can help your district provide efficient and effective services in these ways:

- Become acquainted with your board members. Usually they are your neighbors.
- Educate yourself about your district's powers, duties, and abilities.
- Inform yourself about the issues.
- Attend board meetings.
- Share your concerns and opinions with the board. Suggest a course of action.
- Be active in your district's election process. Promote and vote for directors who are willing to address your concerns.

Participating is the best way to ensure that your district succeeds.

## Attending Board Meetings

The best way to get informed and participate in your district's business is to attend the district's board meetings. State law—the Texas Open Meetings Act (OMA)—is very specific in stating when and how your board must meet.

### ***The Open Meetings Act***

The Open Meetings Act (OMA) requires that all significant actions of the district result from the vote of a quorum of the district's directors in a properly posted open meeting. To properly post a meeting, the directors must post a meeting notice in a place that is continually accessible to the public for at least 72 hours before the meeting. This meeting notice must state the date, hour, place, and agenda of the board meeting.

Your district's directors must also follow these rules in their open meetings:

- Allow the public to attend and make any reasonable accommodations necessary.
- Address only those items posted on the agenda.

- Allow any member of the public to videotape or record all or any part of the meeting. (Directors may adopt rules to specify where the recording equipment may be placed and how the recording can be made.)

Although the OMA requires the board to post their agenda and to allow the public to attend meetings, it does not entitle the public to choose agenda items or speak at the meeting.

To find out about your district's open meetings and where meeting notices are posted, call the district office. If you don't know the district's telephone number, call the TCEQ at 512-239-4691 for assistance.

### ***Exceptions to the OMA***

The OMA is especially strict regarding its requirement that meetings be posted at least 72 hours before the meeting. Exceptions are allowed to this provision for emergencies only. An emergency typically involves either an imminent threat to public health and safety or an unforeseeable situation that requires immediate action.

The OMA is equally strict regarding its requirement that meetings be open to the public. Meetings may be closed to the public only under specific, limited circumstances—contract negotiations, consultations with the board's attorney about litigation, consideration of personnel matters, real-property transactions, and security deployment. Furthermore, the board may not make a decision, take final action, or vote on these matters during the closed session. These activities must take place in an open meeting. Usually, this open meeting immediately follows the closed session.

### ***Reporting Violations of the OMA***

If you suspect that a public board or commission has violated the OMA, contact your local county attorney or district attorney. Neither the Texas Office of the Attorney General nor the TCEQ has legislative authority to enforce the OMA.

### ***More Information about the OMA***

Direct any of your questions about the OMA to the Texas Office of the Attorney General toll-free at 877-673-6839 (OPENTEX). The Office of the Attorney General also publishes a guide called the *Open Meetings Handbook*. You can obtain a copy of this free publication in either of these two ways:

- Contact the Office of the Attorney General at 512-463-2100.
- Go to the Office of the Attorney General's website, at <[texasattorneygeneral.gov](http://texasattorneygeneral.gov)> (on the "Open Government" tab, click on "Open Government Publications").

## Participating in Elections

To participate effectively in elections, you must know when they are held and how they should be run. See “How Are Directors Selected?” above (under “Your District’s Directors”), to find out which types of districts hold director elections.

### ***When Are Director Elections Held?***

For all general-law districts and some special-law districts, director elections are held in even-numbered years on uniform election dates: either the first Saturday in February or the first Saturday in May. The best way to find out where and when elections are held for your district is to contact your district office.

In a district election, voters elect the appropriate number of directors for four-year terms. Most directors over districts that are created by special law are appointed by one or more cities or other governmental entities.

### ***What If the Election Doesn’t Seem Right?***

If you suspect that anything irregular occurred in a district election, you must file to contest the election with the local district court within 30 days after the election. Before you do this, call the Office of the Secretary of State at 800-252-8683 to discuss the issues you perceived at the election. The Office of the Secretary of State can answer any questions you may have about how elections should be conducted. The TCEQ does not have legislative authority over election issues.

## Staying Informed

Two easy ways to inform yourself about issues in your water district are to attend the board meetings and, for major issues, to read the local newspapers. But by studying a number of documents that your district must make available to the public, you may be able to learn even more. See “Using the Public Information Act,” below, to find out how you can view or get copies of your district’s open records.

Four documents (or sets of documents) that can give you useful information about your district are (1) the notice of tax rate, (2) the notice to purchaser, (3) the audited financial statements, and (4) the directors’ pay statements.

### ***Notice of Tax Rate***

Under the Property Tax Code, districts that collect property taxes must publish a notice of the tax rate before they set or change tax rates. Most districts file this form once every year. You can ask your district for a copy of this document.

The district’s board of directors must hold a public hearing if there is to be an increase in the effective tax rate. The effective tax rate must be high enough to cover all of the district’s debts without any other source of income. This may not be the actual rate that your district charges. You can attend this hearing and offer your comments.

For more information about your property taxes, call the Texas Comptroller of Public Accounts, Property Tax Assistance Division, at 800-252-9121, and tell them you would like to know more about ad valorem taxes.

### ***Notice to Purchaser***

Most districts that provide retail utility or drainage services must prepare a form called the “notice to purchaser.” This notice states the name of the district, the total amount of bonds authorized by voters, the amount of tax-backed bonds issued, the current tax rate, the current standby fee, and other pertinent information.

A law that became effective Sept. 1, 1999, added to the list of information that districts must disclose in this notice. The notice must now state whether the property is located in a city’s boundaries or its extraterritorial jurisdiction and the name of the city in which the district is located. If a city can annex and dissolve the district without the consent of the district’s voters or its board of directors, the notice must also disclose this fact.

If you sell property in one of these districts, it is usually your responsibility to provide this information to a prospective buyer when the contract for sale is signed. There is no requirement that the notice be provided both before entering into the contract for sale and at closing. Districts must file this information with the county clerk and must designate an agent of notice—usually someone in the district’s office—whom you may contact for this information. The name of this agent must also be filed with the TCEQ, so call us at 512-239-4691 if you have trouble finding your district’s agent of notice.

### ***Audited Financial Statements***

Your district must have an annual audit prepared by an independent auditor if it meets any one of the following criteria:

- It has outstanding bonds.
- Its gross receipts for the fiscal year were over \$100,000.
- Its cash and temporary investments exceeded \$100,000 at any time during the fiscal year.

Among other information, this audit will tell you the total amount paid to each director and the district’s consultants during the fiscal year.

Copies of this audit are filed in the district’s office and with the TCEQ. To view your district’s audit, contact your district’s office or call the TCEQ’s Records Services at 512-239-2900.

### ***Directors’ Pay Statements***

Every district director, regardless of whether the district must prepare an audited statement, must file a verified statement about the work performed for the district to receive either a per diem or fees of office. This statement must show the number of

days that the director spent in the service of the district and give a general description of the duties performed for each day.

These statements are kept in each district's official records. If your district has an office, its official records might be kept at that office. Sometimes, these files are maintained by the district's attorneys, general manager, operator, or other consultants. The TCEQ suggests that districts keep these types of records for five years.

## Using the Public Information Act

The Texas Public Information Act gives you the right to inspect and copy any record that is considered public or open. Under this act, also known as the Open Records Act, your district must promptly allow you to view or duplicate any open record you ask to see. You may not remove the original copies of public records from the district's office, but you may view and copy them in the district's office.

Under the Open Records Act, the district may require you to put your request in writing. The district may also charge you for making copies, sometimes including reasonable amounts for labor involved in retrieving and copying the records.

If you have more questions about the Open Records Act, call the Office of the Attorney General at 877-673-6839 (OPENTEX). The Office of the Attorney General also publishes a guide called the *Public Information Handbook*. You can obtain a copy of this free publication in either of these two ways:

- Contact the Office of the Attorney General at 512-463-2100.
- Go to the Office of the Attorney General's website, at [texasattorneygeneral.gov](http://texasattorneygeneral.gov) (on the "Open Government" tab, click on "Open Government Publications").

## Assistance with Concerns

### Making Sure Your Concerns Are Addressed

Unless your district's directors are aware of your specific concerns, they cannot respond in an informed, proactive manner. To enable them to respond effectively, you must give them a factual account of your particular situation. Though there's no guarantee, you can improve your chances of having your concerns addressed by taking these steps:

- Briefly outline your situation, concerns, or questions.
- Write a letter based on that outline.
- Indicate in your letter the person that you contacted to resolve the situation—and when.
- Clearly state what outcome or resolution you are seeking from the board.
- Send the letter to the district's board of directors, by certified mail.

- Keep a copy of the letter for your records.
- Ask to be placed on the agenda of the next board meeting to have the directors address your concerns. (Remember that directors can make a decision only during a properly posted, open board meeting.)
- Attend the board meeting to present your situation.

If a director is unresponsive to your concerns, try approaching another one. And keep in mind that your district's voters elect the directors to serve the community. If you're not voting in each election, you're giving up your strongest avenue of relief.

If your concerns aren't resolved to your satisfaction by the district's board of directors, or you suspect possible mismanagement of the district, please contact your local county or district attorney's office for assistance.

## Getting More Information

If you would like more information on Texas water districts, please contact us.

*Send your letter to:*

Districts Section, MC 152  
Water Supply Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

*Call:* 512-239-4691

*Send an email to:* [plandist@tceq.texas.gov](mailto:plandist@tceq.texas.gov)

*Visit our website:* [www.tceq.texas.gov](http://www.tceq.texas.gov)

Our website contains information about our commissioners and their meeting agendas, agency publications, and proposed and adopted rules. You will also find links to the agency's many divisions and programs. You can also go directly to our "Water Districts" page: <[www.tceq.texas.gov/waterdistricts](http://www.tceq.texas.gov/waterdistricts)>.

## Getting TCEQ Publications

If you have a Texas street address, you can order TCEQ publications online. Visit our website at <[www.tceq.texas.gov/publications/order.html](http://www.tceq.texas.gov/publications/order.html)> for instructions. Orders are filled as we receive them. Individual copies are free; however, there may be a charge for multiple copies of the same publication.