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VIA EMAIL: boardmembers@twdb.texas.gov and FAX: (512) 475-2053

Todd Chenoweth, Interim General Counsel
Bech Bruun, Chair
Kathleen Jackson, Board Member
Peter Lake, Board Member
Texas Water Development Board
1700 North Congress Avenue
P.O. Box 13231
Austin, Texas 78711-3231

RE: Warning of Upcoming Violation of the Texas Open Meetings Act by TWDB Board

Dear Mr. Chenoweth and TWDB Board Members:

I have been retained by the nonprofit League of Independent Voters of Texas—members of which are active in water planning and preservation in Central Texas—and who, along with other interested persons, desired to attend the Water for Texas 2017 meeting being hosted by TWDB on January 23-25, 2017 only to discover that the meeting is not open to the public unless they each pay \$525. Along with its mission to conserve and protect water resources and private property rights, the League also addresses issues related to accountability in state government.

Upon review of the information available on the TWDB website about this meeting, it appears to me that it constitutes a violation of the Texas Open Meetings Act (TOMA), Tex. Gov't Code sections 551.002 (open meetings requirement); 551.023 (right of attendee to record the meeting); 551.041, 551.044, and 551.048 (meeting notice requirements); 551.144 (closed meeting criminal offense).

Labeling a Board meeting as a “conference” does not exempt the meeting from the TOMA requirements. A meeting regulated by TOMA includes a “gathering” at which a quorum of the Board discusses or receives agency-related information from third parties. Water for Texas 2017 is touted in a TWDB press release and on its website as “hosted” by TWDB and “will bring together industry professionals, public figures, students, and others with an interest in Texas water for in-depth discussions and learning opportunities.” The press release says, “The agenda features moderated panels, workshops and presentations, demonstrations, sponsored exhibits, and networking—**including meet-and-greets with the TWDB Board members.**” The agenda

demonstrates that at least a quorum (2 out of 3) of the Board will be attending.

The TWDB website says:

The conference will showcase innovative scientific, planning, and financial solutions to water challenges; interactive data and technology; and compelling conversations on water issues that affect all Texans. Panel discussions, workshops, and exhibits will offer **the exclusive opportunity to network and engage with industry leaders, elected officials, and TWDB Board members** and staff. Join us for this important event and help shape the future of Texas.

Viewed on 1/22/17 at <http://waterfortexas.twdb.texas.gov/index.asp>

TOMA section 551.001(4) defines a “meeting” to include a “gathering”:

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The website and press release shows that the Water for Texas 2017 meeting is “hosted” by TWDB and was called by TWDB, that a quorum of the TWDB Board will attend, and at which the Board will communicate with third persons about the public policy over which the Board has supervision or control.

The exception provided in TOMA section 551.001(4) to the definition of a “meeting/gathering” for certain social gatherings and events¹ does not apply to the TWDB-hosted Water for Texas 2017 meeting because the event is not “unrelated to the public business” of TWDB and “discussion of public business” will not be incidental to the event—in fact, discussion of the TWDB business is the main purpose of the event.

In summary, the Water for Texas 2017 event is a “meeting/gathering” pursuant to TOMA that was not posted as required on the Secretary of State’s website, is not “open” to the public because the public must pay to get in, but is an “exclusive opportunity” for persons selected by TWDB to influence and converse with the Board members. We encourage the TWDB to reconsider the way this event is being handled and, at a minimum, announce that the meeting is open to any member of the public who desires to attend and exercise their rights provided by the

¹ The exception says: “The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.”

Texas Open Meetings Act. Please be aware that my clients and others plan to attempt to register or attend the meeting but will not pay the fee advertised. You may reach me directly at 512 750-5843 or Bill@AleshireLaw.com.

ALESHIRELAW, PC



Bill Aleshire

CC: League of Independent Voters of Texas

The Honorable David Escamilla, Travis County Attorney (via email)