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The Senate of
The State of Texas

July 20, 2000

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The Honorable John Cornyn
Attorney General of Texas
W. P. Clements Building
300 West 15th Street
Austin, Texas 78701

Re: Request for Opinion

Dear General Cornyn:

The purpose of this letter is to request an opinion on the proper procedures to follow under the Open Meetings Act when the number of Edwards Aquifer Authority Board members attending a committee meeting meets or exceeds the number needed to establish a quorum.

The Board of Directors of the Edwards Aquifer Authority is composed of 17 directors. See Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, 2356, as amended by Act of May 31, 1995, 74th Leg., R.S., ch. 261, § 1, 1995 Tex. Gen. Laws 2505, 2506. Fifteen of the members are elected officials who are entitled to vote on matters presented to the Board. *Id.* § 1.09(a), (f); §1.091(e). The remaining two members are appointed officials who serve as nonvoting members of the Board. One member is appointed by the South Central Texas Water Advisory Committee and the other is appointed by the Commissioners Court of Medina or Uvalde County in an alternating fashion. *Id.* § 1.091(b),(c). A quorum is constituted by eight members who are entitled to vote. *Id.* §1.09(f).

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FILE # **RQ-0262-9c**
I.D. # FILE # ML-41536-00
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The Edwards Aquifer Authority has eight standing committees which consider various issues and make recommendations to the full Board of Directors. The Chair of the Board appoints directors to serve on the standing committees. Ad hoc committees may also be appointed. Both voting and nonvoting members of the Board serve on the committees, and each committee is organized to include less than eight voting members. All committee members, including nonvoting Board members, are entitled to vote on matters considered by the committee on which the members sit.

Although the Edwards Aquifer Authority is subject to the Texas Open Meetings Act, the committee meetings of the Board are not required to be open meetings as long as a quorum of the Board is not present. See TEX. WATER CODE ANN. §36.064(b) (Vernon 1999). The practice of the Edwards Aquifer Authority is not to appoint a quorum of the voting members of the Board to a committee.

The committee system is an important aspect of the Authority. All issues are referred to a committee for review, consideration, and comment. The committee then makes its recommendation to the Board, which is responsible for the final consideration of the issue.

In some instances, one or more members of the Board who are not members of a committee may attend a committee meeting in order to receive the benefit of the staff's presentation of an issue, the discussion between committee members and staff, and the comments of the public attending the meeting. This may lead to the presence of a quorum of the voting members of the Board at a particular committee meeting.

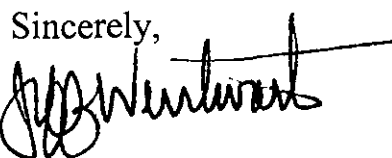
The Edwards Aquifer Authority has previously concluded that if certain guidelines in conducting a committee meeting are satisfied, then a quorum of the voting members of the Board may attend a committee meeting. The Fourth Court of Appeals decision in *Medina Atascosa Water District v. Bexar Medina Atascosa Landowners' Assoc.*, 2 S.W.3d 459 (Tex. App. - San Antonio 1999) and the recent repeal of the authority of governmental bodies to conduct staff briefings in a

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closed meeting make that conclusion suspect. Your decision in Texas Attorney General Opinion No. JC-0248 (2000) also appears to rebut the Authority's conclusion.

To assist in your analysis of this issue, the Edwards Aquifer Authority has provided a memorandum regarding this issue prepared by its legal counsel.

I respectfully request an opinion on this issue.

Sincerely,


Jeff Wentworth

JW/ml

Enclosure