

By: Ritter

H.B. No. 3530

Substitute the following for H.B. No. 3530:

By: Hopson

C.S.H.B. No. 3530

A BILL TO BE ENTITLED

AN ACT

relating to the review and functions of the Texas Water Development Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SECTION 6.013, Water Code, is amended to read as follows:

Sec. 6.013. SUNSET PROVISION. The Texas Water Development Board is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are reviewed.

SECTION 2. Subchapter D, Chapter 6, Water Code, is amended by adding Sections 6.113, 6.114, and 6.115 to read as follows:

Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute

resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT, REMEDIES, AND ENFORCEMENT. (a) In this section:

(1) "Default" means:

(A) default in payment of the principal of or interest on bonds, securities, or other obligations purchased or acquired by the board;

(B) a default or breach of any of the terms of a loan, grant, or other financing agreement; or

(C) any other failure to perform an obligation, breach of a term of an agreement, or default as provided by any proceeding or agreement evidencing an obligation or agreement of a recipient, beneficiary, or guarantor of financial assistance provided by the board.

(2) "Financial assistance program recipient" means a recipient or beneficiary of funds administered by the board under this code, including a borrower, grantee, guarantor, or other

1 beneficiary.

2 (b) In the event of a default and on request by the board,
3 the attorney general shall seek:

4 (1) a writ of mandamus to compel a financial
5 assistance program recipient or the financial assistance program
6 recipient's officers, agents, and employees to cure the default;
7 and

8 (2) any other legal or equitable remedy the board and
9 the attorney general consider necessary and appropriate.

10 (c) A proceeding authorized by this section shall be brought
11 and venue is in a district court in Travis County.

12 (d) In a proceeding under this section, the attorney general
13 may recover reasonable attorney's fees, investigative costs, and
14 court costs incurred on behalf of the state in the proceeding in the
15 same manner as provided by general law for a private litigant.

16 Sec. 6.115. BOARD INFORMATION RESOURCE TECHNOLOGIES.
17 Subchapter L, Chapter 2054, Government Code, does not apply to
18 information resource technologies obtained, used, managed, or
19 controlled by the board.

20 SECTION 3. Section 6.154, Water Code, is amended to read as
21 follows:

22 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain a
23 system to promptly and efficiently act on complaints ~~[file on each~~
24 ~~written complaint]~~ filed with the board. The board shall maintain
25 information about parties to the complaint, ~~[file must include:~~

26 ~~[(1) the name of the person who filed the complaint,~~

27 ~~[(2) the date the complaint is received by the board,~~

1 ~~[(3)]~~ the subject matter of the complaint,~~[,~~
2 ~~[(4) the name of each person contacted in relation to~~
3 ~~the complaint,~~
4 ~~[(5)]~~ a summary of the results of the review or
5 investigation of the complaint,and its disposition~~[,~~
6 ~~[(6) an explanation of the reason the file was closed,~~
7 ~~if the agency closed the file without taking action other than to~~
8 ~~investigate the complaint].~~

9 (b) The board shall make information available describing
10 its ~~[provide to the person filing the complaint and to each person~~
11 ~~who is a subject of the complaint a copy of the board's policies~~
12 ~~and]~~ procedures for ~~[relating to]~~ complaint investigation and
13 resolution.

14 SECTION 4. Section 6.155, Water Code, is amended to read as
15 follows:

16 Sec. 6.155. NOTICE OF COMPLAINT. The board~~[,~~~~at least~~
17 ~~quarterly until final disposition of the complaint,~~ shall
18 periodically notify the ~~[person filing the]~~ complaint parties ~~[and~~
19 ~~each person who is a subject of the complaint]~~ of the status of the
20 complaint until final disposition ~~[investigation unless the notice~~
21 ~~would jeopardize an undercover investigation].~~

22 SECTION 5. Section 11.1271, Water Code, is amended by
23 amending Subsection (f) and adding Subsection (g) to read as
24 follows:

25 (f) The commission shall adopt rules:
26 (1) establishing criteria and deadlines for
27 submission of water conservation plans, including any required

1 amendments, and for submission of implementation reports; and

2 (2) requiring the uniform water use calculation system
3 developed under Section 16.403 to be used in the water conservation
4 plans required by this section.

5 (g) At a minimum, rules adopted under Subsection (f)(2) must
6 require an entity to report the most detailed level of municipal
7 water use data currently available to the entity. The commission
8 may not adopt a rule that requires an entity to report municipal
9 water use data that is more detailed than the entity's billing
10 system is capable of producing.

11 SECTION 6. Section 16.021, Water Code, is amended by
12 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
13 and (g) to read as follows:

14 (c) The executive administrator shall designate the
15 director of the Texas Natural Resources Information System to serve
16 as the state geographic information officer. The state geographic
17 information officer shall:

18 (1) coordinate the acquisition and use of
19 high-priority imagery and data sets;

20 (2) establish, support, and disseminate authoritative
21 statewide geographic data sets;

22 (3) support geographic data needs of emergency
23 management responders during emergencies;

24 (4) monitor trends in geographic information
25 technology; and

26 (5) support public access to state geographic data and
27 resources ~~[The Texas Geographic Information Council (TGIC) is~~

~~created to provide strategic planning and coordination in the acquisition and use of geo-spatial data and related technologies in the State of Texas. The executive administrator and the executive director of the Department of Information Resources shall designate entities to be members of the TGIC. The chief administrative officer of each member entity shall select one representative to serve on the TGIC. The duties of the TGIC shall include providing guidance to the executive administrator in carrying out the executive administrator's duties under this section and guidance to the Department of Information Resources for development of rules related to statewide geo-spatial data and technology standards].~~

(d) Not later than December 1, 2016, and before the end of each successive five-year period after that date, the board shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report that contains recommendations regarding:

(1) statewide geographic data acquisition needs and priorities, including updates on progress in maintaining the statewide digital base maps described by Subsection (e)(6);

(2) policy initiatives to address the acquisition, use, storage, and sharing of geographic data across the state;

(3) funding needs to acquire data, implement technologies, or pursue statewide policy initiatives related to geographic data; and

(4) opportunities for new initiatives to improve the efficiency, effectiveness, or accessibility of state government operations through the use of geographic data ~~[Member entities of~~

1 ~~the TGIC that are state agencies shall, and member entities that are~~
2 ~~not state agencies may, provide information to the TGIC about their~~
3 ~~investments in geographic information and plans for its use. Not~~
4 ~~later than November 1 of each even-numbered year, the TGIC shall~~
5 ~~prepare and provide to the board, the Department of Information~~
6 ~~Resources, the governor, and the legislature a report that:~~

7 ~~[(1) describes the progress made by each TGIC member~~
8 ~~entity toward achieving geographic information system goals and in~~
9 ~~implementing geographic information systems initiatives; and~~

10 ~~[(2) recommends additional initiatives to improve the~~
11 ~~state's geographic information systems programs].~~

12 (d-1) The board shall consult with stakeholders in
13 preparing the report required by Subsection (d).

14 (e) The ~~[Under the guidance of the TGIC, the]~~ executive
15 administrator shall:

16 (1) further develop the Texas Natural Resources
17 Information System by promoting and providing for effective
18 acquisition, archiving, documentation, indexing, and dissemination
19 of natural resource and related digital and nondigital data and
20 information;

21 (2) obtain information in response to disagreements
22 regarding names and name spellings for natural and cultural
23 features in the state and provide this information to the Board on
24 Geographic Names of the United States Department of the Interior;

25 (3) make recommendations to the Board on Geographic
26 Names of the United States Department of the Interior for naming any
27 natural or cultural feature subject to the limitations provided by

Subsection (f);

(4) make recommendations to the Department of Information Resources to adopt and promote standards that facilitate sharing of digital natural resource data and related socioeconomic data among federal, state, and local governments and other interested parties;

(5) acquire and disseminate natural resource and related socioeconomic data describing the Texas-Mexico border region; and

(6) coordinate, conduct, and facilitate the development, maintenance, and use of mutually compatible statewide digital base maps depicting natural resources and man-made features.

(g) The board may establish one or more advisory committees to assist the board or the executive administrator in implementing this section, including by providing information in connection with the preparation of the report required by Subsection (d). In appointing members to an advisory committee, the board shall consider including representatives of:

(1) state agencies that are major users of geographic data;

(2) federal agencies;

(3) local governments; and

(4) the Department of Information Resources.

SECTION 7. Section 16.023(b), Water Code, is amended to read as follows:

(b) The account may be appropriated only to the board to:

1 (1) develop, administer, and implement the strategic
2 mapping program;

3 (2) provide grants to political subdivisions for
4 projects related to the development, use, and dissemination of
5 digital, geospatial information; and

6 (3) administer, implement, and operate other programs
7 of the Texas Natural Resources Information System, including:

8 (A) the operation of a Texas-Mexico border region
9 information center for the purpose of implementing Section
10 16.021(e)(5);

11 (B) the acquisition, storage, and distribution
12 of historical maps, photographs, and paper map products;

13 (C) the maintenance and enhancement of
14 information technology; and

15 (D) the production, storage, and distribution of
16 other digital base maps, as determined by the executive
17 administrator ~~[or a state agency that is a member of the Texas~~
18 ~~Geographic Information Council]~~.

19 SECTION 8. Section 16.051, Water Code, is amended by adding
20 Subsections (a-1) and (a-2) to read as follows:

21 (a-1) The state water plan must include:

22 (1) an evaluation of the state's progress in meeting
23 future water needs, including an evaluation of the extent to which
24 water management strategies and projects implemented after the
25 adoption of the preceding state water plan have affected that
26 progress; and

27 (2) an analysis of the number of projects included in

1 the preceding state water plan that received financial assistance
2 from the board.

3 (a-2) To assist the board in evaluating the state's progress
4 in meeting future water needs, the board may obtain implementation
5 data from the regional water planning groups.

6 SECTION 9. Sections 16.053(c) and (e), Water Code, are
7 amended to read as follows:

8 (c) No later than 60 days after the designation of the
9 regions under Subsection (b), the board shall designate
10 representatives within each regional water planning area to serve
11 as the initial coordinating body for planning. The initial
12 coordinating body may then designate additional representatives to
13 serve on the regional water planning group. The initial
14 coordinating body shall designate additional representatives if
15 necessary to ensure adequate representation from the interests
16 comprising that region, including the public, counties,
17 municipalities, industries, agricultural interests, environmental
18 interests, small businesses, electric generating utilities, river
19 authorities, water districts, and water utilities. The regional
20 water planning group shall maintain adequate representation from
21 those interests. In addition, the groundwater conservation
22 districts located in each management area, as defined by Section
23 36.001, located in the regional water planning area shall appoint
24 one representative of a groundwater conservation district located
25 in the management area and in the regional water planning area to
26 serve on the regional water planning group. In addition,
27 representatives of the board, the Parks and Wildlife Department,

and the Department of Agriculture shall serve as ex officio members of each regional water planning group.

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions adopted under Section 36.108 for the relevant aquifers located in the regional water planning area as of the date the board most recently adopted a state water plan under Section 16.051 or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan;

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of managed available groundwater in accordance with the guidelines provided by the development board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response;

(C) actions to be taken as part of the response;

and

(D) existing major water infrastructure facilities that may be used for interconnections in the event of an emergency shortage of water;

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) approved groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, conjunctive use, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

1 (H) voluntary transfer of water within the region
2 using, but not limited to, regional water banks, sales, leases,
3 options, subordination agreements, and financing agreements; and

4 (I) emergency transfer of water under Section
5 11.139, including information on the part of each permit, certified
6 filing, or certificate of adjudication for nonmunicipal use in the
7 region that may be transferred without causing unreasonable damage
8 to the property of the nonmunicipal water rights holder;

9 (6) identifies river and stream segments of unique
10 ecological value and sites of unique value for the construction of
11 reservoirs that the regional water planning group recommends for
12 protection under Section 16.051;

13 (7) assesses the impact of the plan on unique river and
14 stream segments identified in Subdivision (6) if the regional water
15 planning group or the legislature determines that a site of unique
16 ecological value exists; and

17 (8) describes the impact of proposed water projects on
18 water quality.

19 SECTION 10. Section 16.402, Water Code, is amended by
20 amending Subsection (e) and adding Subsection (f) to read as
21 follows:

22 (e) The board and commission jointly shall adopt rules:

23 (1) identifying the minimum requirements and
24 submission deadlines for the annual reports required by Subsection
25 (b); ~~and~~

26 (2) requiring the uniform water use calculation system
27 developed under Section 16.403 to be used in the reports required by

1 Subsection (b); and

2 (3) providing for the enforcement of this section and
3 rules adopted under this section.

4 (f) At a minimum, rules adopted under Subsection (e)(2) must
5 require an entity to report the most detailed level of municipal
6 water use data currently available to the entity. The board and
7 commission may not adopt a rule that requires an entity to report
8 municipal water use data that is more detailed than the entity's
9 billing system is capable of producing.

10 SECTION 11. Subchapter K, Chapter 16, Water Code, is
11 amended by adding Section 16.403 to read as follows:

12 Sec. 16.403. UNIFORM WATER USE CALCULATION SYSTEM. The
13 board and the commission, in consultation with the Water
14 Conservation Advisory Council, shall develop a uniform system for
15 calculating municipal water use in gallons per capita per day to be
16 used by each entity required to submit a water conservation plan to
17 the board or the commission under this code.

18 SECTION 12. Section 17.003, Water Code, is amended by
19 adding Subsections (c), (d), (e), and (f) to read as follows:

20 (c) Water financial assistance bonds that have been
21 authorized but have not been issued are not considered to be state
22 debt payable from the general revenue fund for purposes of Section
23 49-j, Article III, Texas Constitution, until the legislature makes
24 an appropriation from the general revenue fund to the board to pay
25 the debt service on the bonds.

26 (d) In requesting approval for the issuance of bonds under
27 this chapter, the executive administrator shall certify to the bond

1 review board the debt service on the bonds that is reasonably
2 expected to be paid from:

3 (1) the general revenues of the state; and
4 (2) revenue sources other than the general revenues of
5 the state.

6 (e) The bond review board shall determine the portion of the
7 debt service on bonds to be issued by the board under this chapter
8 that is state debt payable from the general revenues of the state,
9 in accordance with the findings made by the board in the resolution
10 authorizing the issuance of the bonds and the certification
11 provided by the executive administrator under Subsection (d).

12 (f) Bonds issued under this chapter that are designed to be
13 paid from the general revenues of the state shall cease to be
14 considered bonds payable from those revenues if:

15 (1) the bonds are backed by insurance or another form
16 of guarantee that ensures payment from a source other than the
17 general revenues of the state; or

18 (2) the board demonstrates to the satisfaction of the
19 bond review board that the bonds no longer require payment from the
20 general revenues of the state and the bond review board so certifies
21 to the Legislative Budget Board.

22 SECTION 13. As soon as practicable after the effective date
23 of this Act, groundwater conservation districts shall appoint
24 initial representatives to regional water planning groups as
25 required by Section 16.053(c), Water Code, as amended by this Act.

26 SECTION 14. Not later than January 1, 2013:

27 (1) the Texas Commission on Environmental Quality

1 shall adopt rules under Section 11.1271(f), Water Code, as amended
2 by this Act;

3 (2) the Texas Water Development Board and the Texas
4 Commission on Environmental Quality jointly shall adopt rules under
5 Section 16.402(e), Water Code, as amended by this Act; and

6 (3) the Texas Water Development Board and the Texas
7 Commission on Environmental Quality, in consultation with the Water
8 Conservation Advisory Council, shall develop the water use
9 calculation system required by Section 16.403, Water Code, as added
10 by this Act.

11 SECTION 15. This Act takes effect September 1, 2011.