

By: Birdwell, et al.

S.B. No. 625

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the Nueces River Authority, following recommendations
3 of the Sunset Advisory Commission.

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

5 SECTION 1. Sections 1.02(6), (7), (8), and (9), Chapter
6 427, Acts of the 44th Legislature, 1st Called Session, 1935, are
7 amended to read as follows:

8 (6) "Commission" means the Texas Commission on
9 Environmental Quality [~~Water Rights Commission~~].

10 (7) [~~"Quality board" means the Texas Water Quality~~
11 ~~Board.~~

12 [~~(8)~~] "Development board" means the Texas Water
13 Development Board.

14 (8) [~~(9)~~] "Waste" means sewage, industrial waste,
15 municipal waste, recreational waste, agricultural waste, waste
16 heat, solid waste, or any other waste.

17 SECTION 2. Section 1.02A(a), Chapter 427, Acts of the 44th
18 Legislature, 1st Called Session, 1935, is amended to read as
19 follows:

20 (a) The authority is subject to review under Chapter 325,
21 Government Code (Texas Sunset Act), but may not be abolished under
22 that chapter. The review shall be conducted under Section 325.025,
23 Government Code, as if the authority were a state agency scheduled
24 to be abolished September 1, 2031 [~~2019~~], and every 12th year after

1 that year.

2 SECTION 3. Section 2.02(c), Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, is amended to read as
4 follows:

5 (c) If the directors find any land included in the field
6 notes other than land in San Patricio, Nueces, and Jim Wells
7 counties, which is not actually included in the watershed of the
8 Nueces River, the board shall exclude the land from the authority
9 and file a certificate of exclusion with the county clerk of the
10 county in which the land is located. The certificate of exclusion
11 shall describe the boundaries of the land excluded so that the land
12 remaining in the authority may be adequately identified.

13 SECTION 4. Section 2.03(i), Chapter 427, Acts of the 44th
14 Legislature, 1st Called Session, 1935, is amended to read as
15 follows:

16 (i) The governor shall designate a member of the board as
17 the president of the board to serve in that capacity at the pleasure
18 of the governor. The board shall elect [~~a president,~~] one or more
19 vice-presidents, a secretary, a treasurer, and such other officers
20 as the members of the board may determine in the bylaws or
21 otherwise. The [~~president,~~] vice-presidents, secretary, and
22 treasurer shall be members of the board, but other officers need not
23 be members of the board. The offices of secretary and treasurer may
24 be combined, as may the offices of assistant secretary and
25 assistant treasurer.

26 SECTION 5. Subchapter 2, Chapter 427, Acts of the 44th
27 Legislature, 1st Called Session, 1935, is amended by adding Section

1 2.03A to read as follows:

2 Sec. 2.03A. DIRECTOR TRAINING. (a) A person who is
3 appointed to and qualifies for office as a director may not vote,
4 deliberate, or be counted as a director in attendance at a board
5 meeting until the person completes a training program that complies
6 with this section.

7 (b) The training program must provide the person with
8 information regarding:

9 (1) the law governing authority operations;

10 (2) the programs, functions, rules, and budget of the
11 authority;

12 (3) the results of the most recent formal audit of the
13 authority;

14 (4) the requirements of:

15 (A) laws relating to open meetings, public
16 information, administrative procedure, and disclosure of conflicts
17 of interest; and

18 (B) other laws applicable to members of the
19 governing body of a river authority in performing their duties; and

20 (5) any applicable ethics policies adopted by the
21 authority or the Texas Ethics Commission.

22 (c) A person appointed to the board is entitled to
23 reimbursement for the travel expenses incurred in attending the
24 training program regardless of whether the attendance at the
25 program occurs before or after the person qualifies for office.

26 (d) The executive director shall create a training manual
27 that includes the information required by Subsection (b) of this

1 section. The executive director shall distribute a copy of the
2 training manual annually to each director. Each director shall
3 sign and submit to the executive director a statement acknowledging
4 that the director has received and reviewed the training manual.

5 SECTION 6. Section 2.05, Chapter 427, Acts of the 44th
6 Legislature, 1st Called Session, 1935, is amended by amending
7 Subsection (a) and adding Subsection (c) to read as follows:

8 (a) A director is entitled to receive an allowance in an
9 amount not exceeding that provided under Section 49.060, Water Code
10 [~~general law of the State of Texas and reimbursement for actual and~~
11 ~~necessary expenses incurred:~~

12 [~~(1) for each day he spends attending meetings of the~~
13 ~~board; and~~

14 [~~(2) for each day he spends attending to the business~~
15 ~~of the authority which is authorized by the board].~~

16 (c) In all areas of conflict with this section, Section
17 49.060, Water Code, takes precedence.

18 SECTION 7. Subchapter 2, Chapter 427, Acts of the 44th
19 Legislature, 1st Called Session, 1935, is amended by adding
20 Sections 2.06A and 2.08A to read as follows:

21 Sec. 2.06A. PUBLIC TESTIMONY. (a) The board shall develop
22 and implement policies that provide the public with a reasonable
23 opportunity to appear before the board and to speak on any issue
24 under the jurisdiction of the authority.

25 (b) At each regular meeting of the board, the board shall
26 include public testimony as a meeting agenda item and allow members
27 of the public to comment on other agenda items and other matters

1 under the jurisdiction of the authority. The board may not
2 deliberate on or decide a matter not included in the meeting agenda,
3 except that the board may discuss including the matter on the agenda
4 for a subsequent meeting.

5 Sec. 2.08A. SEPARATION OF POLICY AND MANAGEMENT
6 RESPONSIBILITIES. The board shall develop and implement policies
7 that clearly separate the policymaking responsibilities of the
8 board and the management responsibilities of the executive director
9 and the staff of the authority.

10 SECTION 8. Sections 3.02, 3.05, and 3.08, Chapter 427, Acts
11 of the 44th Legislature, 1st Called Session, 1935, are amended to
12 read as follows:

13 Sec. 3.02. CONTROL AND EMPLOYMENT OF WATERS. (a) Subject
14 to the provisions of the constitution and statutes of the state and
15 the continuing right of supervision of the state through the
16 commission, the Nueces River Authority has and may exercise
17 authority and power over the storm water and floodwater of the
18 Nueces River Basin, subject to the applicable provisions of
19 Chapters 5, 11, and 12 [~~6~~], Water Code [~~as amended~~].

20 (b) Subject to Chapters 5, 11, and 12 [~~6~~], Water Code, [~~as~~
21 ~~amended~~] the authority may exercise the powers of control and
22 employment of the state's water in the manner and for the particular
23 purposes as follows:

24 (1) to provide for the control and coordination of
25 water use in the Nueces River Basin as a unit;

26 (2) to provide by adequate organization and
27 administration for the preservation of the rights of the people of

1 the different sections of the river basin in the beneficial use of
2 water;

3 (3) to provide for conserving storm, flood, and
4 unappropriated flow water of the Nueces River Basin, including the
5 storing, controlling, transporting, treating, and distributing of
6 such water, and the prevention of the escape of any such water
7 without the maximum of public service and for the prevention of
8 devastation of land from recurrent overflows, and the protection of
9 life and property in the river basin from uncontrolled floodwater;

10 (4) to provide for the conservation of water essential
11 for domestic and other water uses of the people of the Nueces River
12 Basin, including all necessary water supplies for cities, towns,
13 and industrial districts;

14 (5) to provide for the irrigation of land in the Nueces
15 River Basin where irrigation is required for agricultural purposes
16 or may be deemed helpful to more profitable agricultural production
17 and for the equitable distribution of storm, flood, and
18 unappropriated flow water to the regional potential requirements
19 for all uses; all plans and all works provided by the authority and
20 all works which may be provided under authorization of the
21 authority should have primary regard to the necessary and potential
22 needs for water, by or within the respective areas constituting the
23 watershed of the Nueces River and its tributary streams;

24 (6) to provide for the encouragement and development
25 of drainage systems and provisions for drainage of land in the
26 valleys of the Nueces River and its tributary streams needing
27 drainage for profitable agricultural and livestock production and

1 industrial activities and drainage of other land in the watershed
2 area of the authority requiring drainage for the most advantageous
3 use;

4 (7) to provide for the conservation of all soils
5 against destructive erosion, thereby preventing the increased
6 flood menace incident thereto;

7 (8) to control and make available for employment,
8 flood, storm, and unappropriated flow water as may be authorized by
9 the commission, in the development of commercial and industrial
10 enterprises in all sections of the watershed area of the authority;

11 (9) to provide as set forth by Chapters 5, 11, and 12
12 [6], Water Code, [~~as amended~~] for the control, storing, and
13 employment of flood, storm, and unappropriated flow water in the
14 development and distribution of hydroelectric power, where this use
15 may be economically coordinated with other and superior uses, and
16 subordinated to the uses declared by law to be superior; and

17 (10) to provide in the manner set forth in Chapters 5,
18 11, and 12 [6], Water Code, [~~as amended~~] for each and every purpose
19 and use for which flood, storm, and unappropriated flow water when
20 controlled and conserved may be utilized in the performance of a
21 useful service as contemplated and authorized by the provisions of
22 the constitution and statutes.

23 (c) Subject to Chapters 5, 11, and 12 [6], Water Code, [~~as~~
24 ~~amended~~] the authority may control, store, and preserve the water
25 of the Nueces River and its tributaries within the boundaries of the
26 authority for any useful purpose, and may use, distribute, and sell
27 the water for any beneficial purpose inside and outside the

1 authority, and may acquire water and water rights inside and
2 outside the authority.

3 Sec. 3.05. WATER QUALITY CONTROL. (a) The authority has
4 and may exercise all of the powers vested in river authorities under
5 Chapters 5, 7, 17, 26, and 30, [~~Chapter 21 of the~~] Water Code, [~~as~~
6 ~~amended,~~] and Chapter 366, Health and Safety Code [~~25 of the Water~~
7 ~~Code, as amended~~].

8 (b) The authority is authorized to perform the licensing and
9 other functions authorized to be delegated to local governments by
10 the commission [~~quality board~~] in connection with the regulation of
11 private sewage facilities under Chapter 366, Health and Safety
12 [~~Section 21.083, Water~~] Code.

13 (c) The authority may serve as the entity to provide
14 regional or area-wide waste collection, treatment, and disposal
15 services, as provided in Subchapter C [~~D~~], Chapter 26 [~~21~~], Water
16 Code.

17 Sec. 3.08. PERMITS AND LICENSES. In the manner provided by
18 Chapters 5, 11, and 12 [~~6~~], Water Code, the [~~as amended, the~~
19 ~~authority shall apply for any permits, licenses, franchises, and~~
20 ~~other grants of authority it may require from the commission. The~~]
21 authority may apply for any permits, licenses, franchises, and
22 other grants of authority it may require from the commission
23 [~~quality board~~], the development board, or any other federal,
24 state, or local governmental agencies in exercising its powers and
25 accomplishing the purposes under this Act.

26 SECTION 9. Section 3.15(i), Chapter 427, Acts of the 44th
27 Legislature, 1st Called Session, 1935, is amended to read as

1 follows:

2 (i) The provisions of this section do not prohibit the
3 authority from purchasing or acquiring land or interests in land
4 from any person, or from acquiring, constructing, or improving
5 pollution control or waste collection and disposal facilities in
6 accordance with Chapter 30 [~~25~~], Water Code, [~~as amended,~~] the
7 Clean Air Financing Act (Chapter 4477-5a, Vernon's Texas Civil
8 Statutes), or other applicable statutes, or purchasing or acquiring
9 surplus property from any governmental entity by negotiated
10 contract and without necessity for advertising for bids.

11 SECTION 10. Subchapter 3, Chapter 427, Acts of the 44th
12 Legislature, 1st Called Session, 1935, is amended by adding Section
13 3.18A to read as follows:

14 Sec. 3.18A. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

15 (a) The board shall develop a policy to encourage the use of
16 appropriate alternative dispute resolution procedures under
17 Chapter 2009, Government Code, to assist in the resolution of
18 internal and external disputes under the authority's jurisdiction.

19 (b) The authority's procedures relating to alternative
20 dispute resolution must conform, to the extent possible, to any
21 model guidelines issued by the State Office of Administrative
22 Hearings for the use of alternative dispute resolution by state
23 agencies.

24 (c) The authority shall:

25 (1) coordinate the implementation of the policy
26 adopted under Subsection (a) of this section;

27 (2) provide training as needed to implement the

1 procedures for alternative dispute resolution; and
2 (3) collect data concerning the effectiveness of those
3 procedures.

4 SECTION 11. Sections 3.22A and 3.23, Chapter 427, Acts of
5 the 44th Legislature, 1st Called Session, 1935, are amended to read
6 as follows:

7 Sec. 3.22A. CONSERVATION PROGRAM. The board shall adopt
8 and implement a program of water conservation that incorporates the
9 practices, techniques, and technologies that will reduce the
10 consumption of water, reduce the loss or waste of water, improve the
11 efficiency in the use of water, or increase the recycling and reuse
12 of water so that a water supply is made available for future or
13 alternative uses and that the commission and development board
14 determine [~~Texas Department of Water Resources determines~~] will
15 meet reasonably anticipated local needs and conditions.

16 Sec. 3.23. WORK WITH DEVELOPMENT BOARD. The authority has
17 and may exercise all the powers vested in political subdivisions
18 under Chapters 5, 16, and 17 [~~Chapter 11~~], Water Code, [~~as amended,~~]
19 including [~~without limitation~~] the powers necessary to enable the
20 authority to participate in:

21 (1) [~~the~~] programs administered by the development
22 board for:

23 (A) the acquisition and development of
24 facilities;[~~]~~

25 (B) the sale or lease of facilities; and[~~]~~

26 (C) financial assistance to political
27 subdivisions;[~~]~~ and

1 (2) other programs as are now or may hereafter be
2 authorized.

3 SECTION 12. Subchapter 3, Chapter 427, Acts of the 44th
4 Legislature, 1st Called Session, 1935, is amended by adding
5 Sections 3.27 and 3.28 to read as follows:

6 Sec. 3.27. COMPLAINTS. (a) The authority shall maintain a
7 system to promptly and efficiently act on complaints filed with the
8 authority. The authority shall maintain information about the
9 parties to and subject matter of the complaint, a summary of the
10 results of the review or investigation of the complaint, and the
11 disposition of the complaint.

12 (b) The authority shall make information available
13 describing its procedures for complaint investigation and
14 resolution.

15 (c) The authority shall periodically notify the complaint
16 parties of the status of the complaint until final disposition.

17 Sec. 3.28. FIVE-YEAR STRATEGIC PLAN. (a) The authority
18 shall adopt and promptly publish on the authority's Internet
19 website a written, five-year strategic plan that:

20 (1) sets the authority's goals for the following five
21 years;

22 (2) establishes the authority's mission; and

23 (3) describes the anticipated activities that the
24 authority will perform in the Nueces River Basin over the following
25 five years.

26 (b) The authority shall update the five-year strategic plan
27 regularly and publish the updated versions of the plan on the

1 authority's Internet website.

2 SECTION 13. Section 5.01(a), Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, is amended to read as
4 follows:

5 (a) For the purpose of carrying out any power or authority
6 conferred by this Act, including [~~the expense of~~] preparing the
7 master plan and [~~the~~] payment of engineering and related [~~other~~]
8 expenses [~~in connection with this~~], the authority may issue its
9 bonds in three general classes:

10 (1) bonds secured by ad valorem taxes;

11 (2) bonds secured by a pledge of all or part of the
12 revenues accruing to the authority, including without limitation
13 those received from sale of water or other products, rendition of
14 service, tolls, charges, and from all other sources other than ad
15 valorem taxes;

16 (3) bonds secured by a combination pledge of all or
17 part of the revenues described in Subdivision (2) of this
18 subsection, and taxes.

19 SECTION 14. Section 2, Chapter 699, Acts of the 64th
20 Legislature, Regular Session, 1975, is amended to read as follows:

21 Sec. 2. The rights, privileges, authority, and functions
22 herein granted to the authority and the authority itself are
23 expressly subject to Chapters 5, 7, 17 [~~6~~], and 26 [~~21~~], Water Code,
24 and Chapter 366, Health and Safety Code.

25 SECTION 15. Section 5.03, Chapter 427, Acts of the 44th
26 Legislature, 1st Called Session, 1935, is repealed.

27 SECTION 16. (a) The term of the president of the board of

1 directors of the Nueces River Authority serving on the effective
2 date of this Act expires September 1, 2019. The director serving as
3 president on the effective date of this Act may continue to serve on
4 the board of directors until the director's successor is appointed
5 and has qualified.

6 (b) Not later than September 2, 2019, the governor shall
7 designate a director as president of the board of directors of the
8 Nueces River Authority as required by Section 2.03(i), Chapter 427,
9 Acts of the 44th Legislature, 1st Called Session, 1935, as amended
10 by this Act.

11 SECTION 17. (a) Notwithstanding Section 2.03A, Chapter
12 427, Acts of the 44th Legislature, 1st Called Session, 1935, as
13 added by this Act, a person serving on the board of directors of the
14 Nueces River Authority may vote, deliberate, and be counted as a
15 director in attendance at a meeting of the board until December 1,
16 2019.

17 (b) This section expires January 1, 2020.

18 SECTION 18. (a) The legal notice of the intention to
19 introduce this Act, setting forth the general substance of this
20 Act, has been published as provided by law, and the notice and a
21 copy of this Act have been furnished to all persons, agencies,
22 officials, or entities to which they are required to be furnished
23 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
24 Government Code.

25 (b) The governor, one of the required recipients, has
26 submitted the notice and Act to the Texas Commission on
27 Environmental Quality.

1 (c) The Texas Commission on Environmental Quality has filed
2 its recommendations relating to this Act with the governor, the
3 lieutenant governor, and the speaker of the house of
4 representatives within the required time.

5 (d) All requirements of the constitution and laws of this
6 state and the rules and procedures of the legislature with respect
7 to the notice, introduction, and passage of this Act are fulfilled
8 and accomplished.

9 SECTION 19. This Act takes effect September 1, 2019.