

1-1 By: Birdwell, et al. S.B. No. 625
 1-2 (In the Senate - Filed March 6, 2019; March 7, 2019, read
 1-3 first time and referred to Committee on Water & Rural Affairs;
 1-4 March 27, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; March 27, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 625 By: Johnson

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the Nueces River Authority, following recommendations
 1-20 of the Sunset Advisory Commission.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 1.02(6), (7), (8), and (9), Chapter
 1-23 427, Acts of the 44th Legislature, 1st Called Session, 1935, are
 1-24 amended to read as follows:

1-25 (6) "Commission" means the Texas Commission on
 1-26 Environmental Quality [~~Water Rights Commission~~].

1-27 (7) [~~"Quality board" means the Texas Water Quality~~
 1-28 ~~Board.~~

1-29 [~~(8)~~] "Development board" means the Texas Water
 1-30 Development Board.

1-31 (8) [~~(9)~~] "Waste" means sewage, industrial waste,
 1-32 municipal waste, recreational waste, agricultural waste, waste
 1-33 heat, solid waste, or any other waste.

1-34 SECTION 2. Section 1.02A(a), Chapter 427, Acts of the 44th
 1-35 Legislature, 1st Called Session, 1935, is amended to read as
 1-36 follows:

1-37 (a) The authority is subject to review under Chapter 325,
 1-38 Government Code (Texas Sunset Act), but may not be abolished under
 1-39 that chapter. The review shall be conducted under Section 325.025,
 1-40 Government Code, as if the authority were a state agency scheduled
 1-41 to be abolished September 1, 2031 [~~2019~~], and every 12th year after
 1-42 that year.

1-43 SECTION 3. Section 2.02(c), Chapter 427, Acts of the 44th
 1-44 Legislature, 1st Called Session, 1935, is amended to read as
 1-45 follows:

1-46 (c) If the directors find any land included in the field
 1-47 notes other than land in San Patricio, Nueces, and Jim Wells
 1-48 counties, which is not actually included in the watershed of the
 1-49 Nueces River, the board shall exclude the land from the authority
 1-50 and file a certificate of exclusion with the county clerk of the
 1-51 county in which the land is located. The certificate of exclusion
 1-52 shall describe the boundaries of the land excluded so that the land
 1-53 remaining in the authority may be adequately identified.

1-54 SECTION 4. Section 2.03(i), Chapter 427, Acts of the 44th
 1-55 Legislature, 1st Called Session, 1935, is amended to read as
 1-56 follows:

1-57 (i) The governor shall designate a member of the board as
 1-58 the president of the board to serve in that capacity at the pleasure
 1-59 of the governor. The board shall elect [~~a president,~~] one or more
 1-60 vice-presidents, a secretary, a treasurer, and such other officers

2-1 as the members of the board may determine in the bylaws or
 2-2 otherwise. The [~~president,~~] vice-presidents, secretary, and
 2-3 treasurer shall be members of the board, but other officers need not
 2-4 be members of the board. The offices of secretary and treasurer may
 2-5 be combined, as may the offices of assistant secretary and
 2-6 assistant treasurer.

2-7 SECTION 5. Subchapter 2, Chapter 427, Acts of the 44th
 2-8 Legislature, 1st Called Session, 1935, is amended by adding Section
 2-9 2.03A to read as follows:

2-10 Sec. 2.03A. DIRECTOR TRAINING. (a) A person who is
 2-11 appointed to and qualifies for office as a director may not vote,
 2-12 deliberate, or be counted as a director in attendance at a board
 2-13 meeting until the person completes a training program that complies
 2-14 with this section.

2-15 (b) The training program must provide the person with
 2-16 information regarding:

2-17 (1) the law governing authority operations;
 2-18 (2) the programs, functions, rules, and budget of the
 2-19 authority;

2-20 (3) the results of the most recent formal audit of the
 2-21 authority;

2-22 (4) the requirements of:
 2-23 (A) laws relating to open meetings, public
 2-24 information, administrative procedure, and disclosure of conflicts
 2-25 of interest; and

2-26 (B) other laws applicable to members of the
 2-27 governing body of a river authority in performing their duties; and

2-28 (5) any applicable ethics policies adopted by the
 2-29 authority or the Texas Ethics Commission.

2-30 (c) A person appointed to the board is entitled to
 2-31 reimbursement for the travel expenses incurred in attending the
 2-32 training program regardless of whether the attendance at the
 2-33 program occurs before or after the person qualifies for office.

2-34 (d) The executive director shall create a training manual
 2-35 that includes the information required by Subsection (b) of this
 2-36 section. The executive director shall distribute a copy of the
 2-37 training manual annually to each director. Each director shall
 2-38 sign and submit to the executive director a statement acknowledging
 2-39 that the director has received and reviewed the training manual.

2-40 SECTION 6. Section 2.05, Chapter 427, Acts of the 44th
 2-41 Legislature, 1st Called Session, 1935, is amended by amending
 2-42 Subsection (a) and adding Subsection (c) to read as follows:

2-43 (a) A director is entitled to receive an allowance in an
 2-44 amount not exceeding that provided under Section 49.060, Water Code
 2-45 [general law of the State of Texas and reimbursement for actual and
 2-46 necessary expenses incurred:

2-47 [(1) for each day he spends attending meetings of the
 2-48 board; and

2-49 [(2) for each day he spends attending to the business
 2-50 of the authority which is authorized by the board].

2-51 (c) In all areas of conflict with this section, Section
 2-52 49.060, Water Code, takes precedence.

2-53 SECTION 7. Subchapter 2, Chapter 427, Acts of the 44th
 2-54 Legislature, 1st Called Session, 1935, is amended by adding
 2-55 Sections 2.06A and 2.08A to read as follows:

2-56 Sec. 2.06A. PUBLIC TESTIMONY. (a) The board shall develop
 2-57 and implement policies that provide the public with a reasonable
 2-58 opportunity to appear before the board and to speak on any issue
 2-59 under the jurisdiction of the authority.

2-60 (b) At each regular meeting of the board, the board shall
 2-61 include public testimony as a meeting agenda item and allow members
 2-62 of the public to comment on other agenda items and other matters
 2-63 under the jurisdiction of the authority. The board may not
 2-64 deliberate on or decide a matter not included in the meeting agenda,
 2-65 except that the board may discuss including the matter on the agenda
 2-66 for a subsequent meeting.

2-67 Sec. 2.08A. SEPARATION OF POLICY AND MANAGEMENT
 2-68 RESPONSIBILITIES. The board shall develop and implement policies
 2-69 that clearly separate the policymaking responsibilities of the

3-1 board and the management responsibilities of the executive director
 3-2 and the staff of the authority.

3-3 SECTION 8. Sections 3.02, 3.05, and 3.08, Chapter 427, Acts
 3-4 of the 44th Legislature, 1st Called Session, 1935, are amended to
 3-5 read as follows:

3-6 Sec. 3.02. CONTROL AND EMPLOYMENT OF WATERS. (a) Subject
 3-7 to the provisions of the constitution and statutes of the state and
 3-8 the continuing right of supervision of the state through the
 3-9 commission, the Nueces River Authority has and may exercise
 3-10 authority and power over the storm water and floodwater of the
 3-11 Nueces River Basin, subject to the applicable provisions of
 3-12 Chapters 5, 11, and 12 [~~6~~], Water Code [~~as amended~~].

3-13 (b) Subject to Chapters 5, 11, and 12 [~~6~~], Water Code, [~~as~~
 3-14 ~~amended,~~] the authority may exercise the powers of control and
 3-15 employment of the state's water in the manner and for the particular
 3-16 purposes as follows:

3-17 (1) to provide for the control and coordination of
 3-18 water use in the Nueces River Basin as a unit;

3-19 (2) to provide by adequate organization and
 3-20 administration for the preservation of the rights of the people of
 3-21 the different sections of the river basin in the beneficial use of
 3-22 water;

3-23 (3) to provide for conserving storm, flood, and
 3-24 unappropriated flow water of the Nueces River Basin, including the
 3-25 storing, controlling, transporting, treating, and distributing of
 3-26 such water, and the prevention of the escape of any such water
 3-27 without the maximum of public service and for the prevention of
 3-28 devastation of land from recurrent overflows, and the protection of
 3-29 life and property in the river basin from uncontrolled floodwater;

3-30 (4) to provide for the conservation of water essential
 3-31 for domestic and other water uses of the people of the Nueces River
 3-32 Basin, including all necessary water supplies for cities, towns,
 3-33 and industrial districts;

3-34 (5) to provide for the irrigation of land in the Nueces
 3-35 River Basin where irrigation is required for agricultural purposes
 3-36 or may be deemed helpful to more profitable agricultural production
 3-37 and for the equitable distribution of storm, flood, and
 3-38 unappropriated flow water to the regional potential requirements
 3-39 for all uses; all plans and all works provided by the authority and
 3-40 all works which may be provided under authorization of the
 3-41 authority should have primary regard to the necessary and potential
 3-42 needs for water, by or within the respective areas constituting the
 3-43 watershed of the Nueces River and its tributary streams;

3-44 (6) to provide for the encouragement and development
 3-45 of drainage systems and provisions for drainage of land in the
 3-46 valleys of the Nueces River and its tributary streams needing
 3-47 drainage for profitable agricultural and livestock production and
 3-48 industrial activities and drainage of other land in the watershed
 3-49 area of the authority requiring drainage for the most advantageous
 3-50 use;

3-51 (7) to provide for the conservation of all soils
 3-52 against destructive erosion, thereby preventing the increased
 3-53 flood menace incident thereto;

3-54 (8) to control and make available for employment,
 3-55 flood, storm, and unappropriated flow water as may be authorized by
 3-56 the commission, in the development of commercial and industrial
 3-57 enterprises in all sections of the watershed area of the authority;

3-58 (9) to provide as set forth by Chapters 5, 11, and 12
 3-59 [~~6~~], Water Code, [~~as amended~~] for the control, storing, and
 3-60 employment of flood, storm, and unappropriated flow water in the
 3-61 development and distribution of hydroelectric power, where this use
 3-62 may be economically coordinated with other and superior uses, and
 3-63 subordinated to the uses declared by law to be superior; and

3-64 (10) to provide in the manner set forth in Chapters 5,
 3-65 11, and 12 [~~6~~], Water Code, [~~as amended~~] for each and every purpose
 3-66 and use for which flood, storm, and unappropriated flow water when
 3-67 controlled and conserved may be utilized in the performance of a
 3-68 useful service as contemplated and authorized by the provisions of
 3-69 the constitution and statutes.

4-1 (c) Subject to Chapters 5, 11, and 12 [~~6~~], Water Code, [~~as~~
 4-2 ~~amended,~~] the authority may control, store, and preserve the water
 4-3 of the Nueces River and its tributaries within the boundaries of the
 4-4 authority for any useful purpose, and may use, distribute, and sell
 4-5 the water for any beneficial purpose inside and outside the
 4-6 authority, and may acquire water and water rights inside and
 4-7 outside the authority.

4-8 Sec. 3.05. WATER QUALITY CONTROL. (a) The authority has
 4-9 and may exercise all of the powers vested in river authorities under
 4-10 Chapters 5, 7, 17, 26, and 30, [~~Chapter 21 of the~~] Water Code, [~~as~~
 4-11 ~~amended,~~] and Chapter 366, Health and Safety Code [~~25 of the Water~~
 4-12 ~~Code, as amended~~].

4-13 (b) The authority is authorized to perform the licensing and
 4-14 other functions authorized to be delegated to local governments by
 4-15 the commission [~~quality board~~] in connection with the regulation of
 4-16 private sewage facilities under Chapter 366, Health and Safety
 4-17 [~~Section 21.083, Water~~] Code.

4-18 (c) The authority may serve as the entity to provide
 4-19 regional or area-wide waste collection, treatment, and disposal
 4-20 services, as provided in Subchapter C [~~D~~], Chapter 26 [~~21~~], Water
 4-21 Code.

4-22 Sec. 3.08. PERMITS AND LICENSES. In the manner provided by
 4-23 Chapters 5, 11, and 12 [~~6~~], Water Code, the [~~as amended, the~~
 4-24 ~~authority shall apply for any permits, licenses, franchises, and~~
 4-25 ~~other grants of authority it may require from the commission. The~~
 4-26 authority may apply for any permits, licenses, franchises, and
 4-27 other grants of authority it may require from the commission
 4-28 [~~quality board~~], the development board, or any other federal,
 4-29 state, or local governmental agencies in exercising its powers and
 4-30 accomplishing the purposes under this Act.

4-31 SECTION 9. Section 3.15(i), Chapter 427, Acts of the 44th
 4-32 Legislature, 1st Called Session, 1935, is amended to read as
 4-33 follows:

4-34 (i) The provisions of this section do not prohibit the
 4-35 authority from purchasing or acquiring land or interests in land
 4-36 from any person, or from acquiring, constructing, or improving
 4-37 pollution control or waste collection and disposal facilities in
 4-38 accordance with Chapter 30 [~~25~~], Water Code, [~~as amended,~~] the
 4-39 Clean Air Financing Act (Chapter 4477-5a, Vernon's Texas Civil
 4-40 Statutes), or other applicable statutes, or purchasing or acquiring
 4-41 surplus property from any governmental entity by negotiated
 4-42 contract and without necessity for advertising for bids.

4-43 SECTION 10. Subchapter 3, Chapter 427, Acts of the 44th
 4-44 Legislature, 1st Called Session, 1935, is amended by adding Section
 4-45 3.18A to read as follows:

4-46 Sec. 3.18A. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

4-47 (a) The board shall develop a policy to encourage the use of
 4-48 appropriate alternative dispute resolution procedures under
 4-49 Chapter 2009, Government Code, to assist in the resolution of
 4-50 internal and external disputes under the authority's jurisdiction.

4-51 (b) The authority's procedures relating to alternative
 4-52 dispute resolution must conform, to the extent possible, to any
 4-53 model guidelines issued by the State Office of Administrative
 4-54 Hearings for the use of alternative dispute resolution by state
 4-55 agencies.

4-56 (c) The authority shall:

4-57 (1) coordinate the implementation of the policy
 4-58 adopted under Subsection (a) of this section;

4-59 (2) provide training as needed to implement the
 4-60 procedures for alternative dispute resolution; and

4-61 (3) collect data concerning the effectiveness of those
 4-62 procedures.

4-63 SECTION 11. Sections 3.22A and 3.23, Chapter 427, Acts of
 4-64 the 44th Legislature, 1st Called Session, 1935, are amended to read
 4-65 as follows:

4-66 Section 3.22A. CONSERVATION PROGRAM. The board shall adopt
 4-67 and implement a program of water conservation that incorporates the
 4-68 practices, techniques, and technologies that will reduce the
 4-69 consumption of water, reduce the loss or waste of water, improve the

5-1 efficiency in the use of water, or increase the recycling and reuse
 5-2 of water so that a water supply is made available for future or
 5-3 alternative uses and that the commission and development board
 5-4 determine [~~Texas Department of Water Resources determines~~] will
 5-5 meet reasonably anticipated local needs and conditions.

5-6 Sec. 3.23. WORK WITH DEVELOPMENT BOARD. The authority has
 5-7 and may exercise all the powers vested in political subdivisions
 5-8 under Chapters 5, 16, and 17 [~~Chapter 11~~], Water Code, [~~as amended,~~]
 5-9 including [~~without limitation~~] the powers necessary to enable the
 5-10 authority to participate in:

5-11 (1) [~~the~~] programs administered by the development
 5-12 board for:

5-13 (A) the acquisition and development of
 5-14 facilities; [7]

5-15 (B) the sale or lease of facilities; and [7]

5-16 (C) financial assistance to political
 5-17 subdivisions; [7] and

5-18 (2) other programs as are now or may hereafter be
 5-19 authorized.

5-20 SECTION 12. Subchapter 3, Chapter 427, Acts of the 44th
 5-21 Legislature, 1st Called Session, 1935, is amended by adding
 5-22 Sections 3.27 and 3.28 to read as follows:

5-23 Sec. 3.27. COMPLAINTS. (a) The authority shall maintain a
 5-24 system to promptly and efficiently act on complaints filed with the
 5-25 authority. The authority shall maintain information about the
 5-26 parties to and subject matter of the complaint, a summary of the
 5-27 results of the review or investigation of the complaint, and the
 5-28 disposition of the complaint.

5-29 (b) The authority shall make information available
 5-30 describing its procedures for complaint investigation and
 5-31 resolution.

5-32 (c) The authority shall periodically notify the complaint
 5-33 parties of the status of the complaint until final disposition.

5-34 Sec. 3.28. FIVE-YEAR STRATEGIC PLAN. (a) The authority
 5-35 shall adopt and promptly publish on the authority's Internet
 5-36 website a written, five-year strategic plan that:

5-37 (1) sets the authority's goals for the following five
 5-38 years;

5-39 (2) establishes the authority's mission; and

5-40 (3) describes the anticipated activities that the
 5-41 authority will perform in the Nueces River Basin over the following
 5-42 five years.

5-43 (b) The authority shall update the five-year strategic plan
 5-44 regularly and publish the updated versions of the plan on the
 5-45 authority's Internet website.

5-46 SECTION 13. Section 5.01(a), Chapter 427, Acts of the 44th
 5-47 Legislature, 1st Called Session, 1935, is amended to read as
 5-48 follows:

5-49 (a) For the purpose of carrying out any power or authority
 5-50 conferred by this Act, including [~~the expense of~~] preparing the
 5-51 master plan and [~~the~~] payment of engineering and related [~~other~~]
 5-52 expenses [~~in connection with this~~], the authority may issue its
 5-53 bonds in three general classes:

5-54 (1) bonds secured by ad valorem taxes;

5-55 (2) bonds secured by a pledge of all or part of the
 5-56 revenues accruing to the authority, including without limitation
 5-57 those received from sale of water or other products, rendition of
 5-58 service, tolls, charges, and from all other sources other than ad
 5-59 valorem taxes;

5-60 (3) bonds secured by a combination pledge of all or
 5-61 part of the revenues described in Subdivision (2) of this
 5-62 subsection, and taxes.

5-63 SECTION 14. Section 2, Chapter 699, Acts of the 64th
 5-64 Legislature, Regular Session, 1975, is amended to read as follows:

5-65 Sec. 2. The rights, privileges, authority, and functions
 5-66 herein granted to the authority and the authority itself are
 5-67 expressly subject to Chapters 5, 7, 17 [6], and 26 [21], Water Code,
 5-68 and Chapter 366, Health and Safety Code.

5-69 SECTION 15. Section 5.03, Chapter 427, Acts of the 44th

6-1 Legislature, 1st Called Session, 1935, is repealed.

6-2 SECTION 16. (a) The term of the president of the board of
6-3 directors of the Nueces River Authority serving on the effective
6-4 date of this Act expires September 1, 2019. The director serving as
6-5 president on the effective date of this Act may continue to serve on
6-6 the board of directors until the expiration of that director's
6-7 term.

6-8 (b) Not later than September 2, 2019, the governor shall
6-9 designate a director as president of the board of directors of the
6-10 Nueces River Authority as required by Section 2.03(i), Chapter 427,
6-11 Acts of the 44th Legislature, 1st Called Session, 1935, as amended
6-12 by this Act.

6-13 SECTION 17. (a) Notwithstanding Section 2.03A, Chapter
6-14 427, Acts of the 44th Legislature, 1st Called Session, 1935, as
6-15 added by this Act, a person serving on the board of directors of the
6-16 Nueces River Authority may vote, deliberate, and be counted as a
6-17 director in attendance at a meeting of the board until December 1,
6-18 2019.

6-19 (b) This section expires January 1, 2020.

6-20 SECTION 18. (a) The legal notice of the intention to
6-21 introduce this Act, setting forth the general substance of this
6-22 Act, has been published as provided by law, and the notice and a
6-23 copy of this Act have been furnished to all persons, agencies,
6-24 officials, or entities to which they are required to be furnished
6-25 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-26 Government Code.

6-27 (b) The governor, one of the required recipients, has
6-28 submitted the notice and Act to the Texas Commission on
6-29 Environmental Quality.

6-30 (c) The Texas Commission on Environmental Quality has filed
6-31 its recommendations relating to this Act with the governor, the
6-32 lieutenant governor, and the speaker of the house of
6-33 representatives within the required time.

6-34 (d) All requirements of the constitution and laws of this
6-35 state and the rules and procedures of the legislature with respect
6-36 to the notice, introduction, and passage of this Act are fulfilled
6-37 and accomplished.

6-38 SECTION 19. This Act takes effect September 1, 2019.

6-39

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