

By: Birdwell, et al.

S.B. No. 627

A BILL TO BE ENTITLED

AN ACT

relating to the Red River Authority, following recommendations of the Sunset Advisory Commission.

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

SECTION 1. Section 1A(a), Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended to read as follows:

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

SECTION 2. Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended by adding Sections 4a and 4b to read as follows:

Sec. 4a. (a) It is a ground for removal from the Board that a director:

(1) does not have at the time of taking office the qualifications required by Section 4 of this Act;

(2) does not maintain during service on the Board the qualifications required by Section 4 of this Act;

(3) is ineligible for directorship under Chapter 171, Local Government Code;

(4) cannot, because of illness or disability,

1 discharge the director's duties for a substantial part of the  
2 director's term; or

3 (5) is absent from more than half of the regularly  
4 scheduled Board meetings that the director is eligible to attend  
5 during a calendar year without an excuse approved by a majority vote  
6 of the Board.

7 (b) The validity of an action of the Board is not affected by  
8 the fact that it is taken when a ground for removal of a director  
9 exists.

10 (c) If the general manager has knowledge that a potential  
11 ground for removal exists, the general manager shall notify the  
12 president of the Board of the potential ground. The president shall  
13 then notify the Governor and the Attorney General that a potential  
14 ground for removal exists. If the potential ground for removal  
15 involves the president, the general manager shall notify the next  
16 highest ranking director, who shall then notify the Governor and  
17 the Attorney General that a potential ground for removal exists.

18 Sec. 4b. (a) A person who is appointed to and qualifies for  
19 office as a director may not vote, deliberate, or be counted as a  
20 director in attendance at a Board meeting until the person  
21 completes a training program that complies with this section.

22 (b) The training program must provide the person with  
23 information regarding:

24 (1) the law governing Authority operations;

25 (2) the programs, functions, rules, and budget of the  
26 Authority;

27 (3) the results of the most recent formal audit of the

1 Authority;

2 (4) the requirements of:

3 (A) laws relating to open meetings, public  
4 information, administrative procedure, and disclosure of conflicts  
5 of interest; and

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

8 (5) any applicable ethics policies adopted by the  
9 Authority or the Texas Ethics Commission.

10 (c) A person appointed to the Board is entitled to  
11 reimbursement for the travel expenses incurred in attending the  
12 training program regardless of whether the attendance at the  
13 program occurs before or after the person qualifies for office.

14 (d) The general manager shall create a training manual that  
15 includes the information required by Subsection (b) of this  
16 section. The general manager shall distribute a copy of the  
17 training manual annually to each director. Each director shall  
18 sign and submit to the general manager a statement acknowledging  
19 that the director has received and reviewed the training manual.

20 SECTION 3. Sections 5, 7, 9, 10, and 11, Chapter 279, Acts  
21 of the 56th Legislature, Regular Session, 1959, are amended to read  
22 as follows:

23 Sec. 5. The directors of the Authority shall organize by  
24 electing one director [~~of their members president, one~~]  
25 vice-president, one secretary, and one treasurer. Five (5)  
26 directors shall constitute a quorum at any meeting and a  
27 concurrence of a majority of those present shall be sufficient in

1 all matters pertaining to the business of the district, except the  
2 letting of construction contracts and the authorization of issuance  
3 of warrants paying therefor, which shall require the concurrence of  
4 seven (7) directors. Warrants for the payment of money may be drawn  
5 and signed by two (2) officers or employees designated by standing  
6 order entered in the minutes of the Authority when such accounts  
7 have been contracted and ordered paid by the Board of Directors.

8       Sec. 7. The Governor shall designate a director of the Board  
9 as the president of the Board to serve in that capacity at the  
10 pleasure of the Governor. The president shall preside at all  
11 meetings of the Board and shall be the chief executive officer of  
12 the Authority. The vice-president shall act as president in case of  
13 the absence or disability of the president. The secretary shall act  
14 as secretary of the Board and shall be charged with the duty of  
15 keeping a record of all proceedings and all orders of the Board.  
16 The treasurer shall receive and receipt for all moneys received and  
17 expended. In case of the absence or inability of the secretary to  
18 act, a secretary pro tem shall be selected by the directors.

19       Sec. 9. A complete book of accounts shall be kept. The  
20 account books and records of the Authority and of the depository of  
21 the Authority shall be audited by a Certified Public Accountant  
22 annually as soon as practicable after the end of the district's  
23 fiscal year, such audit to cover a fiscal year ending September 30  
24 of each year, and a report thereon shall be submitted to the first  
25 regular meeting of the Board of Directors thereafter. A copy of the  
26 [said] report shall be [in quadruplicate, one copy being] filed [in  
27 the office of the Authority, one with the depository of the

1 ~~Authority, one]~~ in the office of the auditor. The copy ~~[and one~~  
2 ~~with the Texas Department of Water Resources, all of which]~~ shall be  
3 open to public inspection.

4       Sec. 10. (a) Unless the Board by resolution increases the  
5 fee to an amount authorized by Section 49.060, Water Code, the ~~[The]~~  
6 directors shall receive as fees of office the sum of not to exceed  
7 Twenty-Five (\$25.00) Dollars per day for each day of service  
8 necessary to the discharge of their duties, in addition to all  
9 traveling expenses, provided the same is authorized by vote of the  
10 Board of Directors, they shall file with the secretary on the last  
11 day of each month, or as soon thereafter as practicable, a verified  
12 statement showing the actual amount due and warrants shall be  
13 issued therefor.

14       (b) In all areas of conflict with Subsection (a) of this  
15 section, Section 49.060, Water Code, takes precedence.

16       Sec. 11. The directors may employ a general manager for the  
17 Authority and may give him full authority in the management and  
18 operation of the Authority's affairs (subject only to the orders of  
19 the Board of Directors). The term of office and compensation to be  
20 paid such manager and all employees shall be fixed by the Board of  
21 Directors and all employees may be removed by the Board. A director  
22 may not be employed as general manager ~~[and at such compensation as~~  
23 ~~may be fixed by a majority of the other directors, and when so~~  
24 ~~employed he shall continue to perform the duties of a director, but~~  
25 ~~shall receive no compensation as such director].~~

26       SECTION 4. Chapter 279, Acts of the 56th Legislature,  
27 Regular Session, 1959, is amended by adding Section 11a to read as

1 follows:

2 Sec. 11a. The Board shall develop and implement policies  
3 that clearly separate the policymaking responsibilities of the  
4 Board and the management responsibilities of the general manager  
5 and staff of the Authority.

6 SECTION 5. Section 14a, Chapter 279, Acts of the 56th  
7 Legislature, Regular Session, 1959, is amended to read as follows:

8 Sec. 14a. (1) In addition to other purposes heretofore  
9 authorized by law, the Authority shall have and is vested with all  
10 the powers of the state of Texas under Section 59, Article XVI,  
11 Constitution of the State of Texas, and shall likewise, have and is  
12 vested with all powers, rights, privileges, and functions conferred  
13 upon navigation districts by General Law. The Authority is  
14 governed by and subject to Chapters 49, 60, and 62, Water Code, but  
15 in all areas of conflict, Chapter 62 takes precedence. The [Without  
16 limitation of the generality of the foregoing, the] Authority shall  
17 have and is hereby authorized to exercise the following powers,  
18 rights and privileges, and functions;

19 (2) to promote, construct, maintain and operate or aid  
20 and encourage, the construction, maintenance and operation of  
21 navigable canals or waterways and all navigational systems or  
22 facilities auxiliary thereto using the natural bed and banks of the  
23 Red River, where practicable and thence traversing such route as  
24 may be found by the Authority to be more feasible and practicable to  
25 connect Red River in Texas with any new navigation canals to be  
26 constructed in the lower reaches of Red River or to connect Red  
27 River with the intercoastal canal. The Authority is empowered to

1 construct or cause to be constructed a system of artificial  
2 waterways and canals, together with all locks and other works,  
3 structures and artificial facilities as may be necessary and  
4 convenient for the construction, maintenance and operation of  
5 navigation canals or waterways and all navigational systems and  
6 facilities auxiliary thereto;

7           (3) the right, power, and authority to acquire,  
8 purchase, improve, extend, take over, construct, maintain, repair,  
9 operate, develop and regulate ports, levees, wharves, docks, locks,  
10 warehouses, grain elevators, dumping facilities, belt railways,  
11 lands, and all other facilities or aids to navigation or aids  
12 necessary to the operation or development of ports, or waterways  
13 within the Red River Basin in Texas, provided, the powers conferred  
14 on the Authority under the provisions of this subdivision extend to  
15 a facility or aid authorized under this subdivision only if the  
16 facility or aid is situated in a county or counties included as part  
17 of said Authority;

18           (4) to acquire by gift or purchase any and all  
19 properties of any kind, including lighters, tugs, barges and other  
20 floating equipment of any nature, real, personal or mixed, or any  
21 interest therein within or outside of the boundaries of the  
22 Authority necessary to the exercise of the powers, rights,  
23 privileges and functions conferred upon it by this Act and by  
24 condemnation in the manner provided in Section 18 of the Act  
25 creating the Authority, provided that the Authority shall not be  
26 required to give bond for appeal or bond for costs in any judicial  
27 proceedings;

1           (5) to control, develop, store and use the natural  
2 flow and floodwaters of the Red River and its tributaries for the  
3 purpose of operating and maintaining said navigable canals or  
4 waterways and all navigational systems or facilities auxiliary  
5 thereto, provided, however, that such navigational use shall be  
6 subordinate to consumptive use of water, and navigation shall be  
7 incidental thereto;

8           (6) to effectuate the construction, maintenance and  
9 operation of bank stabilization facilities and~~[ ]~~ channel  
10 rectification or alignment in order~~[ ]~~ to prevent and aid in  
11 preventing devastation of lands from recurrent over-flows and the  
12 protection of life and property in the watershed of the Red River in  
13 Texas or any tributaries thereof within the Authority from  
14 uncontrolled flood waters; to store and conserve to the greatest  
15 beneficial use the storm, flood and unappropriated waters of the  
16 Red River in Texas or any tributaries thereof within the Authority,  
17 so as to prevent the escape of any water without maximum beneficial  
18 use either within or without the boundaries of the Authority;

19           (7) if ~~[in the event]~~ the construction or maintenance  
20 and operation of navigable canals or waterways and all navigational  
21 systems or facilities auxiliary thereto on the Red River in Texas is  
22 taken over or performed by the Federal Government or any agency of  
23 the Federal Government, then ~~[and in such event]~~ the Authority may:

24                   (A) ~~[shall be fully authorized to make and]~~ enter  
25 into ~~[any such]~~ contracts that ~~[as]~~ may be ~~[lawfully]~~ required by  
26 the Federal Government, including ~~[such]~~ assignments and transfers  
27 of property, ~~[and rights of]~~ property rights, ~~[and]~~ easements, and



1 privileges; and

2 (B) take any [and all] other action [lawful  
3 ~~things and acts may be necessary and]~~ required by ~~[in order to meet~~  
4 ~~the requirements of]~~ the Federal Government or any agency of the  
5 Federal Government ~~[in taking over the construction or maintenance~~  
6 ~~and operation of said navigable canals or waterways and all~~  
7 ~~navigational systems or facilities auxiliary thereto];~~

8 (8) the Authority shall have the power to acquire  
9 additional land adjacent to any permanent improvement heretofore or  
10 hereafter constructed within the Authority for the purpose of  
11 developing public parks and recreational facilities; the power to  
12 acquire necessary right-of-way for public ingress and egress to  
13 such areas. The Authority may provide recreational facilities and  
14 services, and may enter into contracts and agreements with the  
15 Federal Government or any agency thereof; the Parks and Wildlife  
16 Department of the State of Texas, any county, municipality,  
17 municipal corporation, person, firm or nonprofit organization for  
18 the construction, operation and maintenance of such park or  
19 recreational facility. It is legislative intent that the Authority  
20 will coordinate the development of any public parks and  
21 recreational facilities with the Parks and Wildlife Department for  
22 conformity with the land and water resources conservation and  
23 recreation plan. ~~['State Comprehensive Outdoor Recreation Plan.']~~  
24 The Authority may perform all functions necessary to qualify for  
25 state or federal recreational grants and loans;

26 (9) in addition to other purposes heretofore  
27 authorized by law and as a necessary aid to the conservation,

1 control, preservation, and distribution of such water for  
2 beneficial use, the Authority is authorized to purchase, construct,  
3 improve, repair, operate and maintain works and facilities  
4 necessary for the collection, transportation, treatment and  
5 disposal of sewage and industrial waste and effluent and to issue  
6 negotiable bonds for such purposes, and the Authority may make  
7 contracts with cities and others under which the Authority will  
8 collect, transport, treat and dispose of sewage from such cities or  
9 other entities. The Authority may also make contracts with any city  
10 for the use of any collection, transportation, treatment or  
11 disposal facilities owned by such city or by the Authority;

12 (10) the bonds which may be issued under this Section,  
13 shall be payable from revenues under any contract or contracts  
14 described herein or from other income of the Authority. Such bonds  
15 shall be in the form and shall be issued in the manner prescribed by  
16 law for other revenue bonds and as provided in Sections 26, 27, 28  
17 and 29, Article 8280-228.

18 SECTION 6. Chapter 279, Acts of the 56th Legislature,  
19 Regular Session, 1959, is amended by adding Section 14e to read as  
20 follows:

21 Sec. 14e. (a) In this section, "system" means a system for  
22 the:

23 (1) provision of water to the public for human  
24 consumption; or

25 (2) collection and treatment of wastewater.

26 (b) The Authority shall adopt an asset management plan by:

27 (1) preparing an asset inventory that identifies the

1 assets of each system and the condition of the assets;

2 (2) developing criteria to prioritize assets for  
3 repair or replacement, including:

4 (A) the date by which the asset will need to be  
5 repaired or replaced;

6 (B) the importance of the asset in providing safe  
7 drinking water and complying with regulatory standards;

8 (C) the importance of the asset to the effective  
9 operation of the system; and

10 (D) other criteria as determined by the  
11 Authority;

12 (3) estimating asset repair and replacement costs;

13 (4) identifying and evaluating potential financing  
14 options; and

15 (5) prioritizing systems that are not in compliance  
16 with federal or state regulatory standards, including water quality  
17 standards.

18 (c) The Authority shall review and revise the plan as  
19 necessary to account for regulatory changes and other developments.

20 (d) The Board shall approve the plan annually as part of its  
21 budgeting process.

22 SECTION 7. Sections 17 and 20, Chapter 279, Acts of the 56th  
23 Legislature, Regular Session, 1959, are amended to read as follows:

24 Sec. 17. (a) The Authority may seek and accept  
25 contributions to its funds from any source for [~~For~~] the purpose of  
26 funding:

27 (1) [~~providing funds requisite to secure the~~]

1 necessary studies;

2           (2) [~~7~~] engineering and other services; and

3           (3) [~~which may be necessary,~~] the collection and  
4 computation of data respecting regional and general conditions that  
5 influence [~~influencing~~] the character and extent of the  
6 improvements necessary to effect the purposes of the [~~creation of~~  
7 ~~this~~] Authority to the greatest public advantage[~~, it is hereby~~  
8 ~~provided that the Authority may solicit, seek and accept~~  
9 ~~contributions to its funds from any other district, authority or~~  
10 ~~municipality, the Federal Government or the State of Texas, or from~~  
11 ~~any other source~~].

12           (b) Any and all grants and gratuities shall be strictly  
13 accounted for and shall be subject to the same rules, regulations  
14 and orders as are other funds handled or disbursed by the Authority.

15           Sec. 20. The Authority shall establish and collect rates  
16 and other charges for the sale or use of water or for its services  
17 sold, furnished or supplied which fees and charges shall be  
18 reasonable and nondiscriminatory but sufficient to produce  
19 revenues adequate to pay the expenses of the Authority in carrying  
20 out its functions for which it is created and to fulfill the terms  
21 of any agreements made with the holders of any of its obligations.  
22 Provided, however, that the rates and charges for the sale or use of  
23 water shall be subject to review by the Public Utility Commission of  
24 Texas [~~State Board of Water Engineers~~], as provided by general law.

25           SECTION 8. Chapter 279, Acts of the 56th Legislature,  
26 Regular Session, 1959, is amended by adding Sections 20a and 20b to  
27 read as follows:

1       Sec. 20a. (a) In this section and Section 20b, "affected  
2 person" has the meaning assigned by Section 13.002, Water Code.

3       (b) The Board shall establish a process to ensure that,  
4 before the Authority makes a significant change to a rate or charge  
5 for the sale and use of water, affected persons are provided:

6           (1) notice of proposed change; and

7           (2) an opportunity to provide to the Board comments  
8 regarding the proposed change.

9       (c) The process established under Subsection (b) must  
10 include:

11           (1) the provision of notice of a proposed change:

12                   (A) on the Authority's website; and

13                   (B) in an affected person's utility bills; and

14           (2) appropriate informational meetings or rate  
15 hearings that provide affected persons the opportunity to provide  
16 public comments about the proposed change to be held:

17                   (A) before sending a statement of intent required  
18 under Chapter 13, Water Code;

19                   (B) in locations as necessary to enable affected  
20 persons to attend; and

21                   (C) after the provision of notice under  
22 Subdivision (1) of this subsection.

23       (d) The Board by rule shall establish a percentage change in  
24 a rate or charge such that a change greater than or equal to that  
25 percentage is considered significant for purposes of Subsection (b)  
26 of this section.

27       Sec. 20b. (a) The Authority shall notify affected persons

1 of their right to appeal changes to rates:

2 (1) in any notices related to changes to rates;

3 (2) in utility bills sent before the deadline for  
4 initiating an appeal under Chapter 13, Water Code; and

5 (3) on the Authority's website.

6 (b) The notice required by Subsection (a) of this section  
7 must include descriptions of:

8 (1) the appeals process;

9 (2) the requirements for an appeal, including the  
10 number of signatures needed on a petition; and

11 (3) the methods available for obtaining additional  
12 information related to rates.

13 SECTION 9. Section 22, Chapter 279, Acts of the 56th  
14 Legislature, Regular Session, 1959, is amended to read as follows:

15 Sec. 22. The Authority may:

16 (1) [~~shall~~] make bylaws for the management and  
17 regulation of its affairs;

18 (2) [~~to adopt and~~] use a corporate seal;

19 (3) [~~to~~] appoint officers, attorneys, agents, and  
20 employees, [~~and to~~] prescribe their duties, and fix their  
21 compensation;

22 (4) [~~to~~] make [~~such~~] other contracts and execute  
23 instruments necessary or convenient to the exercise of the [~~its~~]  
24 powers, rights, privileges and functions conferred on the Authority  
25 [~~upon it~~] by this Act and the general laws of the state pertaining  
26 to water control and improvement districts;

27 (5) [~~to~~] borrow money for its corporate purposes [~~and~~]

1 ~~without limitation of the generality of the foregoing~~; and

2           (6) ~~to~~ borrow money and accept grants from the  
3 United States of America, ~~or~~ the State of Texas, or any other  
4 source, and in connection with any such loan or grant, ~~to~~ enter  
5 into ~~such~~ agreements and assume ~~such~~ obligations as may be  
6 required.

7           SECTION 10. Chapter 279, Acts of the 56th Legislature,  
8 Regular Session, 1959, is amended by adding Sections 33, 34, 35, and  
9 36 to read as follows:

10           Sec. 33. (a) The Board shall develop a policy to encourage  
11 the use of appropriate alternative dispute resolution procedures  
12 under Chapter 2009, Government Code, to assist in the resolution of  
13 internal and external disputes under the Authority's jurisdiction.

14           (b) The Authority's procedures relating to alternative  
15 dispute resolution must conform, to the extent possible, to any  
16 model guidelines issued by the State Office of Administrative  
17 Hearings for the use of alternative dispute resolution by state  
18 agencies.

19           (c) The Authority shall:

20                   (1) coordinate the implementation of the policy  
21 adopted under Subsection (a) of this section;

22                   (2) provide training as needed to implement the  
23 procedures for alternative dispute resolution; and

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

26           Sec. 34. (a) The Board shall develop and implement  
27 policies that provide the public with a reasonable opportunity to

1 appear before the Board and to speak on any issue under the  
2 jurisdiction of the Authority.

3 (b) At each regular meeting of the Board, the Board shall  
4 include public testimony as a meeting agenda item and allow members  
5 of the public to comment on other agenda items and other matters  
6 under the jurisdiction of the Authority. The Board may not  
7 deliberate on or decide a matter not included in the meeting agenda,  
8 except that the Board may discuss including the matter on the agenda  
9 for a subsequent meeting.

10 Sec. 35. (a) The Authority shall maintain a system to  
11 promptly and efficiently act on complaints filed with the  
12 Authority. The Authority shall maintain information about the  
13 parties to and subject matter of the complaint, a summary of the  
14 results of the review or investigation of the complaint, and the  
15 disposition of the complaint.

16 (b) The Authority shall make information available  
17 describing its procedures for complaint investigation and  
18 resolution.

19 (c) The Authority shall periodically notify the complaint  
20 parties of the status of the complaint until final disposition.

21 Sec. 36. (a) The state auditor shall conduct an audit of  
22 the Authority to evaluate whether the Authority has addressed the  
23 operational challenges identified in the report on the Authority by  
24 the Sunset Advisory Commission presented to the 86th Legislature.

25 (b) The state auditor may not begin the audit required by  
26 Subsection (a) of this section before December 1, 2021, and shall  
27 prepare and submit a report of the findings of the audit to the



1 chairman and executive director of the Sunset Advisory Commission  
2 not later than December 1, 2022.

3 (c) The state auditor shall include the auditor's duties  
4 under this section in each audit plan under Section 321.013,  
5 Government Code, that governs the auditor's duties for the period  
6 specified by Subsection (b) of this section.

7 (d) This section expires January 1, 2023.

8 SECTION 11. Section 13, Chapter 279, Acts of the 56th  
9 Legislature, Regular Session, 1959, is repealed.

10 SECTION 12. (a) The term of the president of the board of  
11 directors of the Red River Authority serving on the effective date  
12 of this Act expires September 1, 2019. The director serving as  
13 president on the effective date of this Act may continue to serve on  
14 the board of directors until the director's successor is appointed  
15 and has qualified.

16 (b) Not later than September 2, 2019, the governor shall  
17 designate a director as president of the board of directors of the  
18 Red River Authority as required by Section 7, Chapter 279, Acts of  
19 the 56th Legislature, Regular Session, 1959, as amended by this  
20 Act.

21 SECTION 13. (a) Notwithstanding Section 4b(a), Chapter 279,  
22 Acts of the 56th Legislature, Regular Session, 1959, as added by  
23 this Act, a person serving on the board of directors of the Red  
24 River Authority may vote, deliberate, and be counted as a director  
25 in attendance at a meeting of the board until December 1, 2019.

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

27 SECTION 14. (a) The legal notice of the intention to

1 introduce this Act, setting forth the general substance of this  
2 Act, has been published as provided by law, and the notice and a  
3 copy of this Act have been furnished to all persons, agencies,  
4 officials, or entities to which they are required to be furnished  
5 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
6 Government Code.

7 (b) The governor, one of the required recipients, has  
8 submitted the notice and Act to the Texas Commission on  
9 Environmental Quality.

10 (c) The Texas Commission on Environmental Quality has filed  
11 its recommendations relating to this Act with the governor, the  
12 lieutenant governor, and the speaker of the house of  
13 representatives within the required time.

14 (d) All requirements of the constitution and laws of this  
15 state and the rules and procedures of the legislature with respect  
16 to the notice, introduction, and passage of this Act are fulfilled  
17 and accomplished.

18 SECTION 15. This Act takes effect September 1, 2019.