

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 scope of and limitations on the rulemaking

1 authority of the Authority;

2 (4) the results of the most recent formal audit of the
3 Authority;

4 (5) the requirements of:

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

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

10 (6) any applicable ethics policies adopted by the
11 Authority or the Texas Ethics Commission.

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

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

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

25 Sec. 5. The directors of the Authority shall organize by
26 electing one director [~~of their members president, one~~
27 vice-president, one secretary, and one treasurer. Five (5)

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

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

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

1 ~~[Said]~~ report shall be ~~[in quadruplicate, one copy being]~~ filed ~~[in~~
2 ~~the office of the Authority, one with the depository of the~~
3 ~~Authority, one]~~ in the office of the auditor. The copy ~~[and one~~
4 ~~with the Texas Department of Water Resources, all of which]~~ shall be
5 open to public inspection.

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

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

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

1 SECTION 4. Chapter 279, Acts of the 56th Legislature,
2 Regular Session, 1959, is amended by adding Section 11a to read as
3 follows:

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

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

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

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

1 constructed in the lower reaches of Red River or to connect Red
2 River with the intercoastal canal. The Authority is empowered to
3 construct or cause to be constructed a system of artificial
4 waterways and canals, together with all locks and other works,
5 structures and artificial facilities as may be necessary and
6 convenient for the construction, maintenance and operation of
7 navigation canals or waterways and all navigational systems and
8 facilities auxiliary thereto;

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

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

1 required to give bond for appeal or bond for costs in any judicial
2 proceedings;

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

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

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

26 (A) ~~[shall be fully authorized to make and]~~ enter
27 into ~~[any such]~~ contracts that ~~[as]~~ may be ~~[lawfully]~~ required by

1 the Federal Government, including ~~[such]~~ assignments and transfers
2 of property, ~~[and rights of]~~ property rights, ~~[and]~~ easements, and
3 privileges; and

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

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

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

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

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

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

25 (1) provision of water to the public for human
26 consumption; or

27 (2) collection and treatment of wastewater.

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

2 (1) preparing an asset inventory that identifies the
3 assets of each system and the condition of the assets;

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

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

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

10 (C) the importance of the asset to the effective
11 operation of the system; and

12 (D) other criteria as determined by the
13 Authority;

14 (3) estimating asset repair and replacement costs;

15 (4) identifying and evaluating potential financing
16 options; and

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

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

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

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

26 Sec. 17. (a) The Authority may seek and accept
27 contributions to its funds from any source for ~~For~~ the purpose of

1 funding:

2 (1) [~~providing funds requisite to secure the~~
3 necessary studies];

4 (2) [~~✓~~] engineering and other services; and

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

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

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

27 SECTION 8. Chapter 279, Acts of the 56th Legislature,

1 Regular Session, 1959, is amended by adding Sections 20a and 20b to
2 read as follows:

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

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

8 (1) notice of proposed change; and

9 (2) an opportunity to provide to the Board comments
10 regarding the proposed change.

11 (c) The process established under Subsection (b) must
12 include:

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

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

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

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

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

21 (B) in locations as necessary to enable affected
22 persons to attend; and

23 (C) after the provision of notice under
24 Subdivision (1) of this subsection.

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

1 of this section.

2 Sec. 20b. (a) The Authority shall notify affected persons
3 of their right to appeal changes to rates:

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

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

7 (3) on the Authority's website.

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

10 (1) the appeals process;

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

13 (3) the methods available for obtaining additional
14 information related to rates.

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

17 Sec. 22. The Authority may:

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

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

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

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

1 to water control and improvement districts;

2 (5) ~~to~~ borrow money for its corporate purposes ~~and~~
3 ~~without limitation of the generality of the foregoing~~; and

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

9 SECTION 10. Chapter 279, Acts of the 56th Legislature,
10 Regular Session, 1959, is amended by adding Sections 33, 34, 35, and
11 36 to read as follows:

12 Sec. 33. (a) The Board shall develop a policy to encourage
13 the use of:

14 (1) negotiated rulemaking procedures under Chapter
15 2008, Government Code, for the adoption of Authority rules; and

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

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

25 (c) The Authority shall:

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

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

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

6 Sec. 34. (a) The Board shall develop and implement
7 policies that provide the public with a reasonable opportunity to
8 appear before the Board and to speak on any issue under the
9 jurisdiction of the Authority.

10 (b) At each regular meeting of the Board, the Board shall
11 include public testimony as a meeting agenda item and allow members
12 of the public to comment on other agenda items and other matters
13 under the jurisdiction of the Authority. The Board may not
14 deliberate on or decide a matter not included in the meeting agenda,
15 except that the Board may discuss including the matter on the agenda
16 for a subsequent meeting.

17 Sec. 35. (a) The Authority shall maintain a system to
18 promptly and efficiently act on complaints filed with the
19 Authority. The Authority shall maintain information about the
20 parties to and subject matter of the complaint, a summary of the
21 results of the review or investigation of the complaint, and the
22 disposition of the complaint.

23 (b) The Authority shall make information available
24 describing its procedures for complaint investigation and
25 resolution.

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

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

5 (b) The state auditor may not begin the audit required by
6 Subsection (a) of this section before December 1, 2021, and shall
7 prepare and submit a report of the findings of the audit to the
8 chairman and executive director of the Sunset Advisory Commission
9 not later than December 1, 2022.

10 (c) The state auditor shall include the auditor's duties
11 under this section in each audit plan under Section [321.013](#),
12 Government Code, that governs the auditor's duties for the period
13 specified by Subsection (b) of this section.

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

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

17 SECTION 12. (a) The term of the president of the board of
18 directors of the Red River Authority serving on the effective date
19 of this Act expires September 1, 2019. The director serving as
20 president on the effective date of this Act may continue to serve on
21 the board of directors until the expiration of that director's
22 term.

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

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

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

7 SECTION 14. (a) The legal notice of the intention to
8 introduce this Act, setting forth the general substance of this
9 Act, has been published as provided by law, and the notice and a
10 copy of this Act have been furnished to all persons, agencies,
11 officials, or entities to which they are required to be furnished
12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
13 Government Code.

14 (b) The governor, one of the required recipients, has
15 submitted the notice and Act to the Texas Commission on
16 Environmental Quality.

17 (c) The Texas Commission on Environmental Quality has filed
18 its recommendations relating to this Act with the governor, the
19 lieutenant governor, and the speaker of the house of
20 representatives within the required time.

21 (d) All requirements of the constitution and laws of this
22 state and the rules and procedures of the legislature with respect
23 to the notice, introduction, and passage of this Act are fulfilled
24 and accomplished.

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