

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 19, 2023

The Honorable Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution.

Senate Bill (SB) 2578, as Filed by Senator Nathan Johnson, et al.-relating to the Upper Guadalupe River Authority, following the recommendations of the Sunset Advisory Commission; altering terms of the board of directors; specifying grounds for the removal of a member of the board of directors.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor, and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Senate Bill 2578 provides changes to the Upper Guadalupe River Authority (District) by amending Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, amending Section 1-A(a), amending Section 8, and by amending Section 9 (b), (c), and adding (f). The bill repeals Section 7, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939. The bill addresses Sunset Advisory reviews, appoints a board of directors to serve four-year terms that appoints a general manager and the Governor delegating a board president with some director terms expiring on February 1 of odd-numbered years. Provisions for removing a director, training, policies, and a director may vote, deliberate, and be counted as an attending director at a board meeting until December 1, 2023.

Sincerely,

A handwritten signature in blue ink that reads "Kim Nygren".

Kim Nygren, Deputy Director
Water Availability Division

cc: The Honorable Charles Perry, Chairman, Senate Committee on Water, Agriculture, and Rural Affairs
Senator Nathan Johnson, Texas Senate
Senator Angela Paxton, Texas Senate
Senator Charles Perry, Texas Senate
Senator Charles Schwertner, Texas Senate
Senator Drew Springer, Texas Senate

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 2578

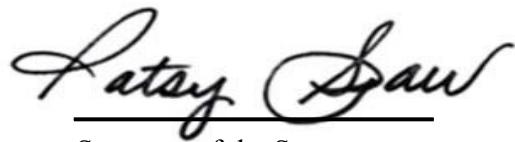
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

3/23/2023

Date transmitted to
Governor's Office



Secretary of the Senate

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

March 31, 2023

Date transmitted to
Texas Commission on Environmental Quality



Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Texas Commission on Environmental Quality

By: Johnson, et al.

S. B. No. 2578

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the Upper Guadalupe River Authority, following the
3 recommendations of the Sunset Advisory Commission; altering terms
4 of the board of directors; specifying grounds for the removal of a
5 member of the board of directors.

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

7 SECTION 1. Section 1A(a), Chapter 5, page 1062, Special
8 Laws, Acts of the 46th Legislature, Regular Session, 1939, is
9 amended to read as follows:

10 Sec. 1A. (a) The District is subject to review under
11 Chapter 325, Government Code (Texas Sunset Act), but may not be
12 abolished under that chapter. The review shall be conducted under
13 Section 325.025, Government Code, as if the District were a state
14 agency scheduled to be abolished September 1, 2035 [2023], and
15 every 12th year after that year.

16 SECTION 2. Section 8, Chapter 5, page 1062, Special Laws,
17 Acts of the 46th Legislature, Regular Session, 1939, is amended to
18 read as follows:

19 Section 8. The [~~It shall not be necessary for the Board of~~
20 ~~Directors to call or hold a hearing on the adoption of a plan of~~
21 ~~taxation, but the~~] ad valorem plan of taxation shall be used by the
22 District.

23 SECTION 3. Section 9, Chapter 5, page 1062, Special Laws,
24 Acts of the 46th Legislature, Regular Session, 1939, is amended by

1 amending Subsections (b), (c), and (d) and adding Subsection (f) to
2 read as follows:

3 (b) Directors are appointed by the Governor. The Governor
4 shall designate a Director as the president of the Board to serve in
5 that capacity at the pleasure of the Governor. Directors are
6 appointed for staggered terms of four [~~six (6)~~] years with either
7 four or five [~~three~~] Directors' terms expiring on February 1 of each
8 odd-numbered year. The Governor shall fill a vacancy on the Board
9 by appointment for the unexpired term.

10 (c) The Board of Directors shall elect from its number a
11 [~~president, a~~] vice president and a secretary of the Board of
12 Directors and of the District, and such other officers as in the
13 judgment of the Board are necessary. The president, as designated
14 by the Governor, shall be chief executive officer of the District
15 and the presiding officer of the Board, and shall have the same
16 right to vote as any other Director. The vice president shall
17 perform all duties and exercise all power conferred by this Act or
18 the general law upon the president when the president is absent or
19 fails or declines to act. The secretary shall keep and sign the
20 minutes of the meetings of the Board of Directors; and in the
21 secretary's [~~his~~] absence at any board meeting, a secretary pro tem
22 shall be named for that meeting who may exercise all the duties and
23 powers of the secretary for such meeting, sign the minutes thereof,
24 and attest all orders passed or other action taken at such meeting.
25 The secretary shall be the custodian of all minutes and records of
26 the District.

27 (d) The Board shall appoint a general manager of the

1 District and all necessary engineers, attorneys, auditors, and
2 other employees.

3 (f) The Board shall develop and implement policies that
4 clearly separate the policy-making responsibilities of the Board
5 and the management responsibilities of the general manager and the
6 staff of the District.

7 SECTION 4. Chapter 5, page 1062, Special Laws, Acts of the
8 46th Legislature, Regular Session, 1939, is amended by adding
9 Sections 9A, 9B, 9C, and 9D to read as follows:

10 Sec. 9A. (a) It is a ground for removal from the Board that
11 a Director:

12 (1) does not have at the time of taking office the
13 qualifications required by Section 9(a) of this Act;

14 (2) does not maintain during service on the Board the
15 qualifications required by Section 9(a) of this Act;

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

18 (4) cannot, because of illness or disability,
19 discharge the Director's duties for a substantial part of the
20 Director's term; or

21 (5) is absent from more than half of the regularly
22 scheduled Board meetings that the Director is eligible to attend
23 during a calendar year without an excuse approved by a majority vote
24 of the Board.

25 (b) The validity of an action of the Board is not affected by
26 the fact that it is taken when a ground for removal of a Director
27 exists.

1 (c) If the general manager has knowledge that a potential
2 ground for removal exists, the general manager shall notify the
3 President of the Board of the potential ground. The President shall
4 then notify the Governor and the Attorney General that a potential
5 ground for removal exists. If the potential ground for removal
6 involves the President, the general manager shall notify the next
7 highest ranking Director, who shall then notify the Governor and
8 the Attorney General that a potential ground for removal exists.

9 Sec. 9B. (a) A person who is appointed to and qualifies for
10 office as a Director may not vote, deliberate, or be counted as a
11 Director in attendance at a meeting of the Board until the person
12 completes a training program that complies with this section.

13 (b) The training program must provide the person with
14 information regarding:

15 (1) the law governing District operations;
16 (2) the programs, functions, rules, and budget of the
17 District;

18 (3) the scope of and limitations on the rulemaking
19 authority of the Board;

20 (4) the results of the most recent formal audit of the
21 District;

22 (5) the requirements of:

23 (A) laws relating to open meetings, public
24 information, administrative procedure, and disclosing conflicts of
25 interest; and

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

1 (6) any applicable ethics policies adopted by the
2 District or the Texas Ethics Commission.

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

7 (d) The general manager of the District shall create a
8 training manual that includes the information required by
9 Subsection (b) of this section. The general manager shall
10 distribute a copy of the training manual annually to each Director.
11 Each Director shall sign and submit to the general manager a
12 statement acknowledging that the Director received and has reviewed
13 the training manual.

14 Sec. 9C. (a) The District shall maintain a system to
15 promptly and efficiently act on complaints filed with the District.
16 The District shall maintain information about parties to the
17 complaint, the subject matter of the complaint, a summary of the
18 results of the review or investigation of the complaint, and its
19 disposition.

20 (b) The District shall make information available
21 describing its procedures for complaint investigation and
22 resolution.

23 (c) The District shall periodically notify the complaint
24 parties of the status of the complaint until final disposition,
25 unless the notice would jeopardize an investigation.

26 Sec. 9D. The Board shall develop and implement policies
27 that provide the public with a reasonable opportunity to appear

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

3 SECTION 5. Section 7, Chapter 5, page 1062, Special Laws,
4 Acts of the 46th Legislature, Regular Session, 1939, is repealed.

5 SECTION 6. At the first meeting of the board of the Upper
6 Guadalupe River Authority that follows the effective date of this
7 Act, the six directors of the Upper Guadalupe River Authority whose
8 terms do not expire on February 1, 2025, shall draw lots to
9 determine which director will serve a term that expires on February
10 1, 2025, and which five directors will serve terms that expire on
11 February 1, 2027. The three directors with terms expiring on
12 February 1, 2025, will serve terms that expire on that date.

13 SECTION 7. Notwithstanding Section 9B, Chapter 5, page
14 1062, Special Laws, Acts of the 46th Legislature, Regular Session,
15 1939, as added by this Act, a person serving on the board of
16 directors of the Upper Guadalupe River Authority may vote,
17 deliberate, and be counted as a director in attendance at a meeting
18 of the board until December 1, 2023.

19 SECTION 8. (a) The legal notice of the intention to
20 introduce this Act, setting forth the general substance of this
21 Act, has been published as provided by law, and the notice and a
22 copy of this Act have been furnished to all persons, agencies,
23 officials, or entities to which they are required to be furnished
24 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
25 Government Code.

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

S.B. No. 2578

1 Environmental Quality.

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

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

10 SECTION 9. This Act takes effect September 1, 2023.

The Kerrville 
DAILY TIMES

P. O. BOX 291428
Kerrville, TX 78028
830-896-7000

Affidavit of Publication

STATE OF TEXAS
COUNTY OF KERR

I, as a representative of **THE KERRVILLE DAILY TIMES**, a newspaper published in the county of Kerr, State of Texas, do swear that the forgoing and attached citation was published in **THE KERRVILLE DAILY TIMES**, a newspaper of general circulation published regularly in said Kerr County, Texas for more than one year before this date on the following dates writ:

02/21/23

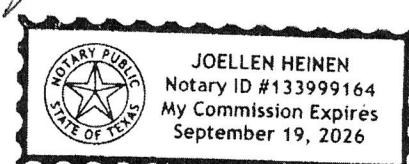
A printed copy of said writ as it was published is attached hereto as a part hereof.

Signed: Chelsea Sore

THE KERRVILLE DAILY TIMES
Kerrville, Kerr County, TX

Sworn to and subscribed before me by the said Newspaper Representative, of **THE KERRVILLE DAILY TIMES**, this **24th day of February, A.D. 2023**, to certify which witness my hand and seal of office.

Signed: Joellen Heinen



PRINTER'S FEE
\$25.00

LEGAL NOTICE

This is to give notice of intent to introduce in the 88th Legislature, Regular Session, a bill to be entitled an Act relating to the Upper Guadalupe River Authority, following the recommendations of the Sunset Advisory Committee; altering terms of the board of directors; specifying grounds for the removal of a member of the board of directors. The costs for the publication of this notice were paid by the Sunset Advisory Commission.