

By: Canales, Holland, Goldman,
Bell of Kaufman, Clardy

H.B. No. 1565

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Texas Water Development Board and continuation and functions of the State Water Implementation Fund for Texas Advisory Committee.

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

SECTION 1. Section 6.013, Water Code, is amended to read as follows:

Sec. 6.013. SUNSET PROVISION. The Texas Water Development Board is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2035 [~~2023~~] and every 12th year after 2035 [~~2023~~] are reviewed.

SECTION 2. Section 6.062, Water Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

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

(1) the law governing [~~legislation that created the~~] board operations;

(2) the programs, functions, rules, and budget of [~~operated by~~] the board;

(3) the scope of and limitations on the rulemaking authority [~~role and functions~~] of the board;

1 (4) ~~[the rules of the board, with an emphasis on the~~
2 ~~rules that relate to disciplinary and investigatory authority,~~
3 ~~[(5) the current budget for the board,~~
4 ~~[(6)]~~ the results of the most recent formal audit of
5 the board;

6 (5) ~~[(7)]~~ the requirements of:

7 (A) laws relating to ~~[the]~~ open meetings, ~~[law,~~
8 ~~Chapter 551, Government Code,~~

9 ~~[(B) the]~~ public information, ~~[law, Chapter 552,~~
10 ~~Government Code,~~

11 ~~[(C) the]~~ administrative procedure, ~~[law,~~
12 ~~Chapter 2001, Government Code,~~] and disclosing conflicts of
13 interest; and

14 (B) ~~[(D)]~~ other laws applicable to members of a
15 state policy-making body in performing their duties ~~[relating to~~
16 ~~public officials, including conflict of interest laws]; and~~

17 (6) ~~[(8)]~~ any applicable ethics policies adopted by
18 the board or the Texas Ethics Commission.

19 (d) The executive administrator shall create a training
20 manual that includes the information required by Subsection (b).
21 The executive administrator shall distribute a copy of the training
22 manual annually to each member of the board. Each member of the
23 board shall sign and submit to the executive administrator a
24 statement acknowledging that the member received and reviewed the
25 training manual.

26 SECTION 3. Section 15.438(k), Water Code, is amended to
27 read as follows:

1 (k) The advisory committee is subject to Chapter 325,
2 Government Code (Texas Sunset Act). Unless continued in existence
3 as provided by that chapter, the advisory committee is abolished
4 and this section expires September 1, 2035 [~~2023~~].

5 SECTION 4. Section 16.053, Water Code, is amended by
6 amending Subsection (e) and adding Subsection (e-2) to read as
7 follows:

8 (e) Each regional water planning group shall submit to the
9 development board a regional water plan that:

10 (1) is consistent with the guidance principles for the
11 state water plan adopted by the development board under Section
12 16.051(d);

13 (2) provides information based on data provided or
14 approved by the development board in a format consistent with the
15 guidelines provided by the development board under Subsection (d);

16 (2-a) is consistent with the desired future conditions
17 adopted under Section 36.108 for the relevant aquifers located in
18 the regional water planning area as of the most recent deadline for
19 the board to adopt the state water plan under Section 16.051 or, at
20 the option of the regional water planning group, established
21 subsequent to the adoption of the most recent plan; provided,
22 however, that if no groundwater conservation district exists within
23 the area of the regional water planning group, the regional water
24 planning group shall determine the supply of groundwater for
25 regional planning purposes; the Texas Water Development Board shall
26 review and approve, prior to inclusion in the regional water plan,
27 that the groundwater supply for the regional planning group without

1 a groundwater conservation district in its area is physically
2 compatible, using the board's groundwater availability models,
3 with the desired future conditions adopted under Section 36.108 for
4 the relevant aquifers in the groundwater management area that are
5 regulated by groundwater conservation districts;

6 (3) identifies:

7 (A) each source of water supply in the regional
8 water planning area, including information supplied by the
9 executive administrator on the amount of modeled available
10 groundwater in accordance with the guidelines provided by the
11 development board under Subsections (d) and (f);

12 (B) factors specific to each source of water
13 supply to be considered in determining whether to initiate a
14 drought response;

15 (C) actions to be taken as part of the response;

16 (D) existing major water infrastructure
17 facilities that may be used for interconnections in the event of an
18 emergency shortage of water; and

19 (E) unnecessary or counterproductive variations
20 in specific drought response strategies, including outdoor
21 watering restrictions, among user groups in the regional water
22 planning area that may confuse the public or otherwise impede
23 drought response efforts;

24 (4) has specific provisions for water management
25 strategies to be used during a drought of record;

26 (5) includes but is not limited to consideration of
27 the following:

1 (A) any existing water or drought planning
2 efforts addressing all or a portion of the region and potential
3 impacts on public health, safety, or welfare in this state;

4 (B) approved groundwater conservation district
5 management plans and other plans submitted under Section 16.054;

6 (C) all potentially feasible water management
7 strategies, including but not limited to improved conservation,
8 reuse, and management of existing water supplies, conjunctive use,
9 acquisition of available existing water supplies, and development
10 of new water supplies;

11 (D) protection of existing water rights in the
12 region;

13 (E) opportunities for and the benefits of
14 developing regional water supply facilities or providing regional
15 management of water supply facilities;

16 (F) appropriate provision for environmental
17 water needs and for the effect of upstream development on the bays,
18 estuaries, and arms of the Gulf of Mexico and the effect of plans on
19 navigation;

20 (G) provisions in Section 11.085(k)(1) if
21 interbasin transfers are contemplated;

22 (H) voluntary transfer of water within the region
23 using, but not limited to, regional water banks, sales, leases,
24 options, subordination agreements, and financing agreements;

25 (I) emergency transfer of water under Section
26 11.139, including information on the part of each permit, certified
27 filing, or certificate of adjudication for nonmunicipal use in the

1 region that may be transferred without causing unreasonable damage
2 to the property of the nonmunicipal water rights holder; and

3 (J) opportunities for and the benefits of
4 developing large-scale desalination facilities for:

5 (i) marine seawater that serve local or
6 regional entities; and

7 (ii) brackish groundwater that serve local
8 or regional brackish groundwater production zones identified and
9 designated under Section 16.060(b)(5);

10 (6) identifies river and stream segments of unique
11 ecological value and sites of unique value for the construction of
12 reservoirs that the regional water planning group recommends for
13 protection under Section 16.051;

14 (7) assesses the impact of the plan on unique river and
15 stream segments identified in Subdivision (6) if the regional water
16 planning group or the legislature determines that a site of unique
17 ecological value exists;

18 (8) describes the impact of proposed water projects on
19 water quality;

20 (9) includes information on:

21 (A) projected water use and conservation in the
22 regional water planning area; ~~and~~

23 (B) the implementation of state and regional
24 water plan projects, including water conservation strategies,
25 necessary to meet the state's projected water demands; and

26 (C) the implementation of large projects,
27 including reservoirs, interstate water transfers, innovative

1 technology projects, desalination plants, and other large projects
2 as determined by the board, including information regarding:

3 (i) expenditures of sponsor money;

4 (ii) permit applications, including the
5 status of a permit application; and

6 (iii) status updates on the phase of
7 construction of a project;

8 (10) if the regional water planning area has
9 significant identified water needs, provides a specific assessment
10 of the potential for aquifer storage and recovery projects to meet
11 those needs;

12 (11) sets one or more specific goals for gallons of
13 water use per capita per day in each decade of the period covered by
14 the plan for the municipal water user groups in the regional water
15 planning area; and

16 (12) assesses the progress of the regional water
17 planning area in encouraging cooperation between water user groups
18 for the purpose of achieving economies of scale and otherwise
19 incentivizing strategies that benefit the entire region.

20 (e-2) A regional water planning group may plan for drought
21 conditions worse than the drought of record when developing a
22 regional water plan under Subsection (e).

23 SECTION 5. Subchapter E, Chapter 16, Water Code, is amended
24 by adding Section 16.147 to read as follows:

25 Sec. 16.147. ESTABLISHMENT OF CERTAIN PERFORMANCE GOALS AND
26 METRICS. (a) The board shall develop and implement performance
27 goals and performance metrics as part of a comprehensive evaluation

1 of the board's review of proposed projects for compliance with
2 programmatic and design requirements.

3 (b) The board shall periodically:

4 (1) collect data regarding the performance metrics;

5 (2) analyze the data described by Subdivision (1)
6 related to the performance metrics to identify relevant trends; and

7 (3) use the performance metrics to assess the board's
8 progress toward meeting the board's performance goals.

9 (c) The board shall periodically review the performance
10 goals and performance metrics to assess the effectiveness and
11 efficiency of the board's review of proposed projects.

12 (d) The executive administrator shall periodically update
13 the board on the implementation and analysis of the performance
14 metrics and progress toward performance goals.

15 (e) The board shall develop and implement periodic
16 reporting schedules for all performance goals and performance
17 metrics required under this section.

18 SECTION 6. Section 17.276, Water Code, is amended by adding
19 Subsections (d-1), (d-2), and (d-3) to read as follows:

20 (d-1) The board by rule may adopt procedures allowing the
21 use of different standards of review and approval of design
22 criteria for plans and specifications for sewage collection,
23 treatment, and disposal systems.

24 (d-2) In establishing the appropriate standard of review
25 and approval for plans and specifications under Subsection (d-1),
26 the rules must require an individualized assessment that applies
27 risk-based considerations to each project associated with the plans

1 and specifications, including:

2 (1) any potential financial risk associated with the
3 project;

4 (2) any risk to public health associated with the
5 project; or

6 (3) other relevant financial considerations
7 associated with the project.

8 (d-3) For plans and specifications subject to a limited
9 standard of review and approval under Subsection (d-1), the board
10 shall require the registered professional engineer who submitted
11 the plans and specifications to make a finding that:

12 (1) the plans and specifications are in substantial
13 compliance with standards established by the commission; and

14 (2) any deviation from the standards established by
15 the commission is based on the best professional judgment of the
16 registered professional engineer.

17 SECTION 7. The following provisions of the Water Code are
18 repealed:

- 19 (1) Section 15.108;
20 (2) Section 15.218; and
21 (3) Section 15.3061.

22 SECTION 8. (a) Except as provided by Subsection (b) of this
23 section, Section 6.062, Water Code, as amended by this Act, applies
24 to a member of the Texas Water Development Board appointed before,
25 on, or after the effective date of this Act.

26 (b) A member of the Texas Water Development Board who,
27 before the effective date of this Act, completed the training

1 program required by Section 6.062, Water Code, as that law existed
2 before the effective date of this Act, is only required to complete
3 additional training on the subjects added by this Act to the
4 training program required by Section 6.062, Water Code. A board
5 member described by this subsection may not vote, deliberate, or be
6 counted as a member in attendance at a meeting of the board held on
7 or after December 1, 2023, until the member completes the
8 additional training.

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