

1-1 By: Canales, et al. (Senate Sponsor - Perry) H.B. No. 1565  
 1-2 (In the Senate - Received from the House April 19, 2023;  
 1-3 April 20, 2023, read first time and referred to Committee on Water,  
 1-4 Agriculture & Rural Affairs; May 2, 2023, reported favorably by the  
 1-5 following vote: Yeas 8, Nays 0; May 2, 2023, sent to printer.)

1-6 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7  |     |     |        |     |
| 1-8  | X   |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 |     |     | X      |     |
| 1-13 | X   |     |        |     |
| 1-14 | X   |     |        |     |
| 1-15 | X   |     |        |     |
| 1-16 | X   |     |        |     |

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

1-19 relating to the functions of the Texas Water Development Board and  
 1-20 continuation and functions of the State Water Implementation Fund  
 1-21 for Texas Advisory Committee.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 6.013, Water Code, is amended to read as  
 1-24 follows:

1-25 Sec. 6.013. SUNSET PROVISION. The Texas Water Development  
 1-26 Board is subject to review under Chapter 325, Government Code  
 1-27 (Texas Sunset Act), but is not abolished under that chapter. The  
 1-28 board shall be reviewed during the period in which state agencies  
 1-29 abolished in 2035 [2023] and every 12th year after 2035 [2023] are  
 1-30 reviewed.

1-31 SECTION 2. Section 6.062, Water Code, is amended by  
 1-32 amending Subsection (b) and adding Subsection (d) to read as  
 1-33 follows:

1-34 (b) The training program must provide the person with  
 1-35 information regarding:

1-36 (1) the law governing [legislation that created the]  
 1-37 board operations;

1-38 (2) the programs, functions, rules, and budget of  
 1-39 [operated by] the board;

1-40 (3) the scope of and limitations on the rulemaking  
 1-41 authority [role and functions] of the board;

1-42 (4) [the rules of the board, with an emphasis on the  
 1-43 rules that relate to disciplinary and investigatory authority;

1-44 [(5) the current budget for the board;

1-45 [(6)] the results of the most recent formal audit of  
 1-46 the board;

1-47 (5) [(7)] the requirements of:

1-48 (A) laws relating to [the] open meetings, [law,  
 1-49 Chapter 551, Government Code,

1-50 [(B) the] public information, [law, Chapter 552,  
 1-51 Government Code,

1-52 [(C) the] administrative procedure, [law,  
 1-53 Chapter 2001, Government Code,] and disclosing conflicts of  
 1-54 interest; and

1-55 (B) [(D)] other laws applicable to members of a  
 1-56 state policy-making body in performing their duties [relating to  
 1-57 public officials, including conflict of interest laws]; and

1-58 (6) [(8)] any applicable ethics policies adopted by  
 1-59 the board or the Texas Ethics Commission.

1-60 (d) The executive administrator shall create a training  
 1-61 manual that includes the information required by Subsection (b).

2-1 The executive administrator shall distribute a copy of the training  
 2-2 manual annually to each member of the board. Each member of the  
 2-3 board shall sign and submit to the executive administrator a  
 2-4 statement acknowledging that the member received and reviewed the  
 2-5 training manual.

2-6 SECTION 3. Section 15.438(k), Water Code, is amended to  
 2-7 read as follows:

2-8 (k) The advisory committee is subject to Chapter 325,  
 2-9 Government Code (Texas Sunset Act). Unless continued in existence  
 2-10 as provided by that chapter, the advisory committee is abolished  
 2-11 and this section expires September 1, 2035 [~~2023~~].

2-12 SECTION 4. Section 16.053, Water Code, is amended by  
 2-13 amending Subsection (e) and adding Subsection (e-2) to read as  
 2-14 follows:

2-15 (e) Each regional water planning group shall submit to the  
 2-16 development board a regional water plan that:

2-17 (1) is consistent with the guidance principles for the  
 2-18 state water plan adopted by the development board under Section  
 2-19 16.051(d);

2-20 (2) provides information based on data provided or  
 2-21 approved by the development board in a format consistent with the  
 2-22 guidelines provided by the development board under Subsection (d);

2-23 (2-a) is consistent with the desired future conditions  
 2-24 adopted under Section 36.108 for the relevant aquifers located in  
 2-25 the regional water planning area as of the most recent deadline for  
 2-26 the board to adopt the state water plan under Section 16.051 or, at  
 2-27 the option of the regional water planning group, established  
 2-28 subsequent to the adoption of the most recent plan; provided,  
 2-29 however, that if no groundwater conservation district exists within  
 2-30 the area of the regional water planning group, the regional water  
 2-31 planning group shall determine the supply of groundwater for  
 2-32 regional planning purposes; the Texas Water Development Board shall  
 2-33 review and approve, prior to inclusion in the regional water plan,  
 2-34 that the groundwater supply for the regional planning group without  
 2-35 a groundwater conservation district in its area is physically  
 2-36 compatible, using the board's groundwater availability models,  
 2-37 with the desired future conditions adopted under Section 36.108 for  
 2-38 the relevant aquifers in the groundwater management area that are  
 2-39 regulated by groundwater conservation districts;

2-40 (3) identifies:

2-41 (A) each source of water supply in the regional  
 2-42 water planning area, including information supplied by the  
 2-43 executive administrator on the amount of modeled available  
 2-44 groundwater in accordance with the guidelines provided by the  
 2-45 development board under Subsections (d) and (f);

2-46 (B) factors specific to each source of water  
 2-47 supply to be considered in determining whether to initiate a  
 2-48 drought response;

2-49 (C) actions to be taken as part of the response;

2-50 (D) existing major water infrastructure  
 2-51 facilities that may be used for interconnections in the event of an  
 2-52 emergency shortage of water; and

2-53 (E) unnecessary or counterproductive variations  
 2-54 in specific drought response strategies, including outdoor  
 2-55 watering restrictions, among user groups in the regional water  
 2-56 planning area that may confuse the public or otherwise impede  
 2-57 drought response efforts;

2-58 (4) has specific provisions for water management  
 2-59 strategies to be used during a drought of record;

2-60 (5) includes but is not limited to consideration of  
 2-61 the following:

2-62 (A) any existing water or drought planning  
 2-63 efforts addressing all or a portion of the region and potential  
 2-64 impacts on public health, safety, or welfare in this state;

2-65 (B) approved groundwater conservation district  
 2-66 management plans and other plans submitted under Section 16.054;

2-67 (C) all potentially feasible water management  
 2-68 strategies, including but not limited to improved conservation,  
 2-69 reuse, and management of existing water supplies, conjunctive use,

3-1 acquisition of available existing water supplies, and development  
 3-2 of new water supplies;  
 3-3 (D) protection of existing water rights in the  
 3-4 region;  
 3-5 (E) opportunities for and the benefits of  
 3-6 developing regional water supply facilities or providing regional  
 3-7 management of water supply facilities;  
 3-8 (F) appropriate provision for environmental  
 3-9 water needs and for the effect of upstream development on the bays,  
 3-10 estuaries, and arms of the Gulf of Mexico and the effect of plans on  
 3-11 navigation;  
 3-12 (G) provisions in Section 11.085(k)(1) if  
 3-13 interbasin transfers are contemplated;  
 3-14 (H) voluntary transfer of water within the region  
 3-15 using, but not limited to, regional water banks, sales, leases,  
 3-16 options, subordination agreements, and financing agreements;  
 3-17 (I) emergency transfer of water under Section  
 3-18 11.139, including information on the part of each permit, certified  
 3-19 filing, or certificate of adjudication for nonmunicipal use in the  
 3-20 region that may be transferred without causing unreasonable damage  
 3-21 to the property of the nonmunicipal water rights holder; and  
 3-22 (J) opportunities for and the benefits of  
 3-23 developing large-scale desalination facilities for:  
 3-24 (i) marine seawater that serve local or  
 3-25 regional entities; and  
 3-26 (ii) brackish groundwater that serve local  
 3-27 or regional brackish groundwater production zones identified and  
 3-28 designated under Section 16.060(b)(5);  
 3-29 (6) identifies river and stream segments of unique  
 3-30 ecological value and sites of unique value for the construction of  
 3-31 reservoirs that the regional water planning group recommends for  
 3-32 protection under Section 16.051;  
 3-33 (7) assesses the impact of the plan on unique river and  
 3-34 stream segments identified in Subdivision (6) if the regional water  
 3-35 planning group or the legislature determines that a site of unique  
 3-36 ecological value exists;  
 3-37 (8) describes the impact of proposed water projects on  
 3-38 water quality;  
 3-39 (9) includes information on:  
 3-40 (A) projected water use and conservation in the  
 3-41 regional water planning area; ~~and~~  
 3-42 (B) the implementation of state and regional  
 3-43 water plan projects, including water conservation strategies,  
 3-44 necessary to meet the state's projected water demands; and  
 3-45 (C) the implementation of large projects,  
 3-46 including reservoirs, interstate water transfers, innovative  
 3-47 technology projects, desalination plants, and other large projects  
 3-48 as determined by the board, including information regarding:  
 3-49 (i) expenditures of sponsor money;  
 3-50 (ii) permit applications, including the  
 3-51 status of a permit application; and  
 3-52 (iii) status updates on the phase of  
 3-53 construction of a project;  
 3-54 (10) if the regional water planning area has  
 3-55 significant identified water needs, provides a specific assessment  
 3-56 of the potential for aquifer storage and recovery projects to meet  
 3-57 those needs;  
 3-58 (11) sets one or more specific goals for gallons of  
 3-59 water use per capita per day in each decade of the period covered by  
 3-60 the plan for the municipal water user groups in the regional water  
 3-61 planning area; and  
 3-62 (12) assesses the progress of the regional water  
 3-63 planning area in encouraging cooperation between water user groups  
 3-64 for the purpose of achieving economies of scale and otherwise  
 3-65 incentivizing strategies that benefit the entire region.  
 3-66 (e-2) A regional water planning group may plan for drought  
 3-67 conditions worse than the drought of record when developing a  
 3-68 regional water plan under Subsection (e).  
 3-69 SECTION 5. Subchapter E, Chapter 16, Water Code, is amended

4-1 by adding Section 16.147 to read as follows:

4-2 Sec. 16.147. ESTABLISHMENT OF CERTAIN PERFORMANCE GOALS AND  
 4-3 METRICS. (a) The board shall develop and implement performance  
 4-4 goals and performance metrics as part of a comprehensive evaluation  
 4-5 of the board's review of proposed projects for compliance with  
 4-6 programmatic and design requirements.

4-7 (b) The board shall periodically:

4-8 (1) collect data regarding the performance metrics;

4-9 (2) analyze the data described by Subdivision (1)  
 4-10 related to the performance metrics to identify relevant trends; and

4-11 (3) use the performance metrics to assess the board's  
 4-12 progress toward meeting the board's performance goals.

4-13 (c) The board shall periodically review the performance  
 4-14 goals and performance metrics to assess the effectiveness and  
 4-15 efficiency of the board's review of proposed projects.

4-16 (d) The executive administrator shall periodically update  
 4-17 the board on the implementation and analysis of the performance  
 4-18 metrics and progress toward performance goals.

4-19 (e) The board shall develop and implement periodic  
 4-20 reporting schedules for all performance goals and performance  
 4-21 metrics required under this section.

4-22 SECTION 6. Section 17.276, Water Code, is amended by adding  
 4-23 Subsections (d-1), (d-2), and (d-3) to read as follows:

4-24 (d-1) The board by rule may adopt procedures allowing the  
 4-25 use of different standards of review and approval of design  
 4-26 criteria for plans and specifications for sewage collection,  
 4-27 treatment, and disposal systems.

4-28 (d-2) In establishing the appropriate standard of review  
 4-29 and approval for plans and specifications under Subsection (d-1),  
 4-30 the rules must require an individualized assessment that applies  
 4-31 risk-based considerations to each project associated with the plans  
 4-32 and specifications, including:

4-33 (1) any potential financial risk associated with the  
 4-34 project;

4-35 (2) any risk to public health associated with the  
 4-36 project; or

4-37 (3) other relevant financial considerations  
 4-38 associated with the project.

4-39 (d-3) For plans and specifications subject to a limited  
 4-40 standard of review and approval under Subsection (d-1), the board  
 4-41 shall require the registered professional engineer who submitted  
 4-42 the plans and specifications to make a finding that:

4-43 (1) the plans and specifications are in substantial  
 4-44 compliance with standards established by the commission; and

4-45 (2) any deviation from the standards established by  
 4-46 the commission is based on the best professional judgment of the  
 4-47 registered professional engineer.

4-48 SECTION 7. The following provisions of the Water Code are  
 4-49 repealed:

4-50 (1) Section 15.108;

4-51 (2) Section 15.218; and

4-52 (3) Section 15.3061.

4-53 SECTION 8. (a) Except as provided by Subsection (b) of this  
 4-54 section, Section 6.062, Water Code, as amended by this Act, applies  
 4-55 to a member of the Texas Water Development Board appointed before,  
 4-56 on, or after the effective date of this Act.

4-57 (b) A member of the Texas Water Development Board who,  
 4-58 before the effective date of this Act, completed the training  
 4-59 program required by Section 6.062, Water Code, as that law existed  
 4-60 before the effective date of this Act, is only required to complete  
 4-61 additional training on the subjects added by this Act to the  
 4-62 training program required by Section 6.062, Water Code. A board  
 4-63 member described by this subsection may not vote, deliberate, or be  
 4-64 counted as a member in attendance at a meeting of the board held on  
 4-65 or after December 1, 2023, until the member completes the  
 4-66 additional training.

4-67 SECTION 9. This Act takes effect September 1, 2023.

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