

BILL ANALYSIS

Senate Research Center
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S.B. 626
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Water & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislature created the Guadalupe-Blanco River Authority (GBRA) in 1933 to develop, conserve, and protect the water of the Guadalupe and Blanco Rivers. GBRA receives no state appropriations and operated on a budget of about \$56 million in fiscal year 2017, 65 percent of which came from water and wastewater sales to wholesale and retail customers.

The Texas Sunset Advisory Commission (Sunset) found that GBRA's new management team has identified several internal issues for the authority to improve or fix; however, a growing population coupled with aging infrastructure necessitates that GBRA strategize for the future. Although Sunset has recommended several management actions, it found limited statutory changes were needed. The provisions in this bill primarily focus on opportunities for GBRA to apply basic good government standards to their governing laws.

S.B. 626 updates the date of GBRA's next Sunset review to 2031, the standard 12-year period.

S.B. 626 applies basic good government standards to GBRA's governing laws to promote accountability, transparency, and best practices.

- These standards are applied to all entities under Sunset review as "across-the-board recommendations" unless a good reason exists not to apply the standard.
- Provides for gubernatorial designation of the presiding officer, requires board member training, separates duties of staff from the board, requires public testimony be included in each board meeting agenda, requires maintenance of complaint information, and promotes alternative dispute resolution.

As proposed, S.B. 626 amends current law relating to the Guadalupe-Blanco River Authority; following the recommendations of the Sunset Advisory Commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1A(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as follows:

- (a) Provides that the District is subject to review under Chapter 325 (Texas Sunset Act), Government Code, but is prohibited from being abolished under that chapter. Requires the review to be conducted under Section 325.025 (River Authorities Subject to Review), Government Code, as if the District were a state agency scheduled to be abolished September 1, 2031, rather than September 1, 2019, and every 12th year after that year.

SECTION 2. Amends Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as follows:

Sec. 2. Requires the District, except as expressly limited by this Act, to have and is hereby authorized to exercise all powers, rights, privileges, and functions conferred by General Law, now in force or hereafter enacted, upon any District or Districts created pursuant to Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), of Article 16, of the Constitution of the State of Texas (excluding underground water conservation districts), and the same are adopted by reference. Requires the District, without limitation of the generality of the foregoing, to have and hereby authorizes the District to exercise the following powers, rights, privileges, and functions;

(a)-(x) makes no changes to these subsections;

(y) Provides that the rights, powers, privileges, authority, and functions granted to the District under this Act, and the District itself, are expressly subject to Chapters 5 (Texas Commission on Environmental Quality), 7 (Enforcement), 11 (Water Rights), 12 (Provisions Generally Applicable to Water Rights), 17 (Public Funding), 26 (Water Quality Control), and 30 (Regional Waste Disposal), Water Code, and Chapter 366 (On-Site Sewage Disposal Systems), Health and Safety Code, rather than that the rights, powers, privileges, authority, and functions granted to the District under this Act, and the District itself, are expressly subject to Chapters 5, 6, and 21, Water Code.

SECTION 3. Amends Section 4, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as follows:

(a) Creates this subsection from existing text and deletes existing text relating to requiring each director to receive Twenty-five Dollars (\$25) per day, or such amount as may hereafter be prescribed by general law, for each day spent in attending meetings of the Board, and any other business of the District that the Board thinks necessary, plus actual traveling and other expenses.

SECTION 4. Amends Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, by adding Section 4A, as follows:

Sec. 4A. (a) Prohibits a person who is appointed to and qualifies for office as a director from voting, deliberating, or being counted as a director in attendance at a Board meeting until the person completes a training program that complies with this section.

(b) Requires the training program to provide the person with information regarding the law governing District operations, the programs, functions, rules, and budget of the District, the scope of and limitations on the rulemaking authority of the District, the results of the most recent formal audit of the District, the requirements of laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest and other laws applicable to members of the governing body of a river authority in performing their duties, and any applicable ethics policies adopted by the District or the Texas Ethics Commission.

(c) Entitles a person appointed to the Board of directors of the Guadalupe-Blanco River Authority (Board) to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Requires the general manager to create a training manual that includes the information required by Subsection (b) of this section. Requires the general manager to distribute a copy of the training manual annually to each director. Requires each director to sign and submit to the general manager a statement acknowledging that the director has received the training manual.

SECTION 5. Amends Section 5, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as follows:

Sec. 5. Requires the Governor to designate a member of the Board as the presiding officer of the Board to serve in that capacity at the pleasure of the Governor.

SECTION 6. Amends Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, by adding Section 5A, as follows:

Sec. 5A. Requires the Board to develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the general manager and the staff of the District.

SECTION 7. Amends Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as follows:

Sec. 11. Requires the District to have power and is hereby authorized to issue, from time to time, bonds or notes as herein authorized for any corporate purpose. Authorizes such bonds or notes (hereinafter called 'bonds') to either be (1) sold for cash, at public or private sale, at such price or prices as the Board shall determine, provided that the interest cost of the money received therefor, computed to maturity, are prohibited from exceeding ten (10) percent per annum, or (2) are authorized to be issued on such terms as the Board is required determine in exchange for property of any kind, real, personal or mixed or any interest therein which the Board is required to deem necessary or convenient for any such corporate purpose, or (3) is authorized to be issued in exchange for like principal amounts of other obligations of the District, matured or unmatured. Requires the proceeds of sale of such bonds to be deposited in such bank or banks or trust company or trust companies, and is required to be paid out pursuant to such terms and conditions, as is authorized to be agreed upon between the District and the purchasers of such bonds. Requires all such bonds to be authorized by resolution or resolutions of the Board concurred in by at least five (5) of the members thereof, and is required to bear such date or dates, mature at such time or times, bear interest at such rate or rates which may be fixed, variable, floating or otherwise (not exceeding ten (10) per centum per annum), payable annually, semiannually or otherwise, be in such denominations, be in such form, either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions is authorized to provide. Authorizes any resolution or resolutions authorizing any bonds to contain provisions, which are required to be part of the contract between the District and the holders thereof from time to time.

(a)-(h) Makes no changes to these subsections;

(i) For the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, or to the United States of America or any officer or agency thereof, of, rather than or, indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and

(j) Such other provisions, not inconsistent with the provisions of this Act, as the Board may approve.

(1) Any such resolution and any indenture or agreement entered into pursuant thereto are authorized to provide that in the event that:

(2) And such default is required to have continued such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under

the indenture or indentures entered into in respect of the bonds authorized thereby, or, if there is authorized to be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized thereby and at that time outstanding, and upon the written request of the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, is required to, in his or its own name, but for the equal and proportionate benefit of the holders of all the such bonds; and with or without having possession thereof;

(a)-(d) makes no changes to these subparagraphs;

(e) after such notice of the District as such resolution is authorized to provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five (25) per centum in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized thereby and at the time outstanding is required to by, rather than be, instrument or instruments in writing delivered to such trustee have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Authorizes any such resolution, indenture or agreement to provide that in any such suit, action, or proceeding, any such trustee, whether or not all of such bonds is required to have been declared due and payable, and with or without possession of any thereof, is required to be entitled as of right to the appointment of a receiver who is authorized to enter and take possession of all or any part of the properties of the District, and operate and maintain the same, and fix, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in Subparagraphs (a), (b), (c), (d) and (e) of Section 9 hereof and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee and of the receiver or receivers, if any, is required to constitute taxable disbursements and all costs and disbursements allowed by the Court is required to be a first charge upon any revenues pledged to secure the payment of such bonds. Requires the courts of the County of Comal, subject to the provisions of the Constitution of the State of Texas, to have jurisdiction of any suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. Requires each such trustee, in addition to the powers hereinabove specifically provided for, to have and possess all powers necessary or appropriate, rather than appropriated, for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

SECTION 8. Amends Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, by adding Sections 23, 24, and 25, as follows:

Sec. 23. (a) Requires the Board to develop a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of District rules and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution For Use By Governmental Bodies),

Government Code, to assist in the resolution of internal and external disputes under the District's jurisdiction.

(b) Requires the District's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the District to coordinate the implementation of the policy adopted under Subsection (a) of this section, provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

Sec. 24. (a) Requires the Board to develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the District.

(b) Requires the Board, at each regular meeting of the Board, to include public testimony as a meeting agenda item and allow members of the public to comment on other agenda items and other matters under the jurisdiction of the District. Prohibits the Board from deliberating on or deciding a matter not included in the meeting agenda, except that the Board is authorized to discuss including the matter on the agenda for a subsequent meeting.

Sec. 25. (a) Requires the District to maintain a system to promptly and efficiently act on complaints filed with the District. Requires the District to maintain information about the parties to and subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) Requires the District to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the District to periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 9. Repealer: Section 8, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933.

SECTION 10. (a) Provides that the term of the president of the board of directors of the Guadalupe-Blanco River Authority serving on the effective date of this Act expires September 1, 2019. Authorizes the director serving as president on the effective date of this Act to continue to serve on the board of directors until the expiration of that director's term.

(b) Requires the governor, not later than September 2, 2019, to designate a director as president of the board of directors of the Guadalupe-Blanco River Authority as required by Section 5, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended by this Act.

SECTION 11. (a) Authorizes a person serving on the board of directors of the Guadalupe-Blanco River Authority, notwithstanding Section 4A(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as added by this Act, to vote, deliberate, and be counted as a director in attendance at a meeting of the board until December 1, 2019.

(b) Provides that this section expires January 1, 2020.

SECTION 12. Provides that the repeal by this Act of Section 8, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, does not apply to an offense committed before the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense was

committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 13. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 14. Effective date: September 1, 2019.