

BILL ANALYSIS

Senate Research Center
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S.B. 2578
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Water, Agriculture & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Established in 1939, the Upper Guadalupe River Authority (UGRA) monitors the portions of the Guadalupe River and its tributaries within Kerr County to protect the watershed from threats such as flooding, sedimentation, water pollution, and invasive species. Through its work with stakeholders and partners in Kerr County, UGRA is highly regarded in the community, with a reputation for leveraging its small staff to create meaningful improvements in the water quality of the Guadalupe River. While UGRA performs its operations well, the Sunset Advisory Commission found some areas where the authority could benefit from adopting good governance practices.

Key Provisions:

- Extends the Upper Guadalupe River Authority's Sunset review date 12 years to 2035.
- Amends UGRA's board member terms from six years to four years to comply with constitutional requirements.
 - Conservation districts created under Article XVI, Section 59, of the Texas Constitution are limited to four-year terms.
- Applies good government standards to UGRA's governing law. These standards are applied across-the-board to all entities under Sunset review.
 - Requires the governor to designate a member of the UGRA board to serve as the presiding officer.
 - Requires UGRA to specify the grounds and process for removing a board member.
 - Requires UGRA to establish board member training requirements.
 - Requires UGRA to adopt policies to clearly separate board functions from the authority's day-to-day staff operations.
 - Requires UGRA to include public testimony as an agenda item at every regular board meeting.
 - Requires UGRA to maintain a system for receiving and acting on complaints and to make information available regarding its complaint procedures.

As proposed, S.B. 2578 amends current law relating to the Upper Guadalupe River Authority, following the recommendations of the Sunset Advisory Commission, alters terms of the board of directors, and specifies grounds for the removal of a member of the board of directors.

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 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as follows:

Sec. 1A. (a) Requires that the review of the Upper Guadalupe River Authority (district) 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, 2035, rather than September 1, 2023, and every 12th year after that year.

SECTION 2. Amends Section 8, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as follows:

Section 8. Deletes existing text prohibiting it from being necessary for the board of directors of the district (board) to call or hold a hearing on the adoption of a plan of taxation.

SECTION 3. Amends Section 9, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, by amending Subsections (b), (c), and (d) and adding Subsection (f), as follows:

(b) Requires the governor to designate a director as the president of the board to serve in that capacity at the pleasure of the governor. Provides that directors are appointed for staggered terms of four years with either four or five directors' terms, rather than terms of six (6) years with three director's terms, expiring on February 1 of each odd-numbered year.

(c) Deletes existing text requiring the board to elect from its number a president. Requires the president, as designated by the governor, to be chief executive officer of the district and the presiding officer of the board, and to have the same right to vote as any other director. Makes nonsubstantive changes.

(d) Requires the board to appoint certain persons, including a general manager of the district.

(f) Requires the board to develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the general manager and the staff of the district.

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

Sec. 9A. (a) Provides that 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 9(a) of this Act;

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

(3) is ineligible for directorship under Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code;

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

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) Requires the general manager, if the general manager has knowledge that a potential ground for removal exists, to notify the president of the board of the potential ground. Requires the president to then notify the governor and the attorney general that a potential ground for removal exists. Requires the general manager, if the potential ground for removal involves the president, to notify the

next highest ranking director, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 9B. (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 meeting of the board until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

(1) the law governing district operations;

(2) the programs, functions, rules, and budget of the district;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the results of the most recent formal audit of the district;

(5) the requirements of:

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

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

(6) any applicable ethics policies adopted by the district or the Texas Ethics Commission.

(c) Entitles a person appointed to the 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 of the district 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 received and has reviewed the training manual.

Sec. 9C. (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 parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(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, unless the notice would jeopardize an investigation.

Sec. 9D. 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.

SECTION 5. Repealer: Section 7 (relating to prohibiting a director, officer, agent, or employee of the district from being directly or indirectly interested in any contract for the purchase of any property or construction of any work by or for the district), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939.

SECTION 6. Requires the six directors whose terms do not expire on February 1, 2025, at the first meeting of the board that follows the effective date of this Act, to draw lots to determine which director will serve a term that expires on February 1, 2025, and which five directors will serve terms that expire on February 1, 2027. Provides that the three directors with terms expiring on February 1, 2025, will serve terms that expire on that date.

SECTION 7. Authorizes a person serving on the board, notwithstanding Section 9B, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, 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, 2023.

SECTION 8. 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 9. Effective date: September 1, 2023.