

Draft Legislation: Texas Backbone Authority Act

Proposed statutory language for creating the Texas Backbone Authority

AN ACT

relating to the creation of the Texas Backbone Authority; providing for the development, financing, construction, and operation of water transmission infrastructure; and declaring an emergency.

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. SHORT TITLE.

This Act may be cited as the "Texas Backbone Authority Act."

SECTION 1.02. FINDINGS AND PURPOSE.

The legislature finds that:

- (1) Texas faces a critical water supply challenge, with population projected to grow from 30 million to 55 million by 2070 while traditional water sources are declining;
- (2) Existing water infrastructure was designed for a smaller population and cannot meet future demand;
- (3) Gulf Coast seawater desalination and brackish groundwater treatment offer drought-proof water supply alternatives that do not depend on rainfall or require flooding productive land;
- (4) A statewide water transmission backbone connecting these new sources to major population centers serves the public interest;

(5) An independent state authority is the most effective structure for developing, financing, and operating this critical infrastructure.

SECTION 1.03. DEFINITIONS.

In this Act:

(1) "Authority" means the Texas Backbone Authority created under this Act.

(2) "Board" means the board of directors of the authority.

(3) "Backbone infrastructure" means water transmission pipelines, pumping stations, aquifer storage and recovery systems, and associated facilities developed by the authority.

(4) "Multi-use corridor" means rights-of-way acquired by the authority that may accommodate fiber optic lines, electrical transmission, and other utility infrastructure in addition to water transmission facilities.

(5) "Participating municipality" means a municipal water utility or water district that contracts with the authority to purchase wholesale water.

ARTICLE 2. TEXAS BACKBONE AUTHORITY

SECTION 2.01. CREATION.

The Texas Backbone Authority is created as an independent state agency.

SECTION 2.02. BOARD OF DIRECTORS.

(a) The authority is governed by a board of directors consisting of nine members as follows:

(1) three members appointed by the governor;

(2) two members appointed by the lieutenant governor;

(3) two members appointed by the speaker of the house of representatives;

(4) one member who is the executive administrator of the Texas Water Development Board or the executive administrator's designee, serving ex officio; and

(5) one member who is the executive director of the Texas Commission on Environmental Quality or the executive director's designee, serving ex officio.

(b) Appointed members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year.

(c) An appointed member may be removed only for cause by the appointing official.

(d) A vacancy shall be filled for the unexpired term by the official who made the original appointment.

SECTION 2.03. BOARD QUALIFICATIONS.

(a) Each appointed member must have demonstrated experience in at least one of the following areas:

(1) water resources management;

(2) civil engineering or infrastructure development;

(3) public finance or municipal bonds;

(4) environmental science or regulation;

(5) public utility management; or

(6) business management of large-scale enterprises.

(b) No more than five appointed members may be of the same political party.

(c) Appointed members shall reflect geographic diversity across the state.

SECTION 2.04. EXECUTIVE DIRECTOR.

(a) The board shall employ an executive director to manage the daily operations of the authority.

(b) The executive director serves at the pleasure of the board.

SECTION 2.05. STAFF.

The authority may employ staff necessary to carry out its duties and responsibilities.

ARTICLE 3. POWERS AND DUTIES

SECTION 3.01. GENERAL POWERS.

The authority may:

(1) plan, design, finance, construct, own, operate, and maintain backbone infrastructure;

(2) acquire water from desalination and treatment facility operators;

(3) sell water at wholesale to participating municipalities;

(4) acquire property and rights-of-way, including through the exercise of eminent domain for public purposes;

(5) enter into contracts necessary to accomplish its purposes;

(6) issue revenue bonds and other obligations;

(7) accept grants, loans, and other financial assistance from federal, state, and local sources;

(8) develop and manage multi-use corridor assets, including fiber optic and electrical transmission infrastructure;

(9) establish fees, rates, and charges for services;

(10) sue and be sued in its own name;

(11) adopt rules necessary to implement this Act; and

(12) perform any other acts necessary to carry out its purposes.

SECTION 3.02. WATER ACQUISITION.

(a) The authority shall acquire water from private desalination and treatment facility operators through contracts that provide for payment at the operator's verified cost of production plus a margin not to exceed eight percent.

(b) The authority shall own all water upon purchase from operators.

(c) The authority shall not operate desalination or water treatment facilities directly but shall contract with qualified private operators.

SECTION 3.03. WATER SALES.

(a) The authority shall sell water at wholesale only and shall not sell water directly to retail customers.

(b) The authority shall establish rates sufficient to:

(1) pay all costs of water acquisition;

(2) pay all costs of infrastructure operation and maintenance;

(3) maintain adequate reserves; and

(4) fund future infrastructure expansion.

(c) The board shall adopt rates annually following public notice and comment.

SECTION 3.04. MULTI-USE CORRIDOR.

(a) The authority may develop fiber optic, electrical transmission, and other utility infrastructure within acquired rights-of-way.

(b) Revenue from multi-use corridor assets shall be applied to reduce water rates or fund infrastructure expansion.

SECTION 3.05. EMINENT DOMAIN.

- (a) The authority may exercise the power of eminent domain to acquire property necessary for backbone infrastructure.
- (b) The authority shall provide just compensation as required by the Texas Constitution.
- (c) Eminent domain may not be exercised to acquire property for desalination or water treatment facilities, which shall be developed on property acquired through voluntary transactions.

SECTION 3.06. LIMITATIONS.

The authority may not:

- (1) compete with holders of existing water rights for water supplies;
 - (2) sell water directly to retail customers;
 - (3) operate desalination or water treatment facilities directly; or
 - (4) impair existing contracts between water suppliers and their customers.
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ARTICLE 4. MUNICIPAL ACCESS AND CONDITIONALITY

SECTION 4.01. ACCESS CONDITIONS.

- (a) The board shall adopt rules establishing conditions for municipal access to backbone water supplies.
- (b) Conditions may include requirements relating to:
 - (1) infrastructure improvement commitments;
 - (2) water loss reduction targets;
 - (3) conservation program maintenance; and
 - (4) reporting and verification.

(c) Access conditions shall be designed to ensure that new water supplies result in lasting infrastructure improvements.

SECTION 4.02. TIERED ACCESS.

The board may establish tiered access levels based on municipal compliance with access conditions, with higher compliance resulting in greater allocation access.

ARTICLE 5. FINANCE

SECTION 5.01. BONDS.

(a) The authority may issue revenue bonds to finance backbone infrastructure.

(b) Bonds shall be payable solely from authority revenues and shall not constitute a debt or obligation of the state.

(c) Bonds shall be authorized by board resolution.

SECTION 5.02. TEXAS WATER FUND.

(a) The authority is eligible to receive financial assistance from the Texas Water Fund created under Section 49-d-14, Article III, Texas Constitution.

(b) The Texas Water Development Board shall give priority consideration to authority applications for financial assistance.

SECTION 5.03. FEDERAL ASSISTANCE.

The authority may apply for and receive federal grants, loans, and other financial assistance, including assistance under the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. Section 3901 et seq.).

ARTICLE 6. OVERSIGHT AND REPORTING

SECTION 6.01. ANNUAL REPORT.

The authority shall submit an annual report to the governor, lieutenant governor, and speaker of the house of representatives by December 1 of each year describing:

- (1) infrastructure development progress;
- (2) water deliveries and sales;
- (3) financial condition; and
- (4) future plans.

SECTION 6.02. AUDIT.

The state auditor shall conduct a financial audit of the authority at least once every two years.

SECTION 6.03. PERFORMANCE REVIEW.

The authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. EFFECTIVE DATE.

This Act takes effect September 1, 2025.

SECTION 7.02. EMERGENCY.

The importance of this legislation and the pressing need for water infrastructure development create an emergency and an imperative public necessity requiring this Act to take effect immediately.

This draft legislation is intended to illustrate the statutory framework needed to establish the Texas Backbone Authority. Final legislative language should be developed in consultation with the Texas Legislative Council, Office of the Attorney General, and affected state agencies.

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