

Supreme Court of Texas

Misc. Docket No. 24-9101

Retransfer of Case from the Fifteenth Court of Appeals to the Tenth Court of Appeals

Pursuant to Tex. Gov't Code §73.001, the following case is hereby retransferred from the Court of Appeals for the Fifteenth District, Austin, Texas, to the Court of Appeals for the Tenth District, Waco, Texas:

Case No. 15-24-00070-CV

Sandom Baumgardner

v.

Brazos River Authority

The Fifteenth Court of Appeals will make the necessary order for the retransfer of the case directed hereby and will cause the Clerk of that Court to retransfer or transmit all filings in the case, and verify all orders made, to the Tenth Court of Appeals. Upon completion of the retransfer, the Fifteenth Court of Appeals shall provide notice of the retransfer of the case to the Supreme Court and the State Office of Court Administration.

Dated: June 27, 2025.



James D. Blacklock, Chief Justice



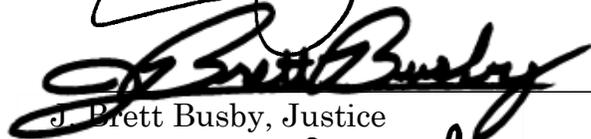
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



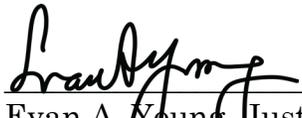
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



James P. Sullivan, Justice

Supreme Court of Texas

Misc. Docket No. 24-9101

Sandom Baumgardner,
Petitioner,

v.

Brazos River Authority,
Respondent

On Motion to Transfer from the
Court of Appeals for the Fifteenth District of Texas

PER CURIAM

The Fifteenth Court of Appeals has forwarded to this Court a party’s motion to return an appeal to the Tenth Court of Appeals. At issue is whether, for purposes of the statute that defines the Fifteenth Court’s jurisdiction, a river authority is an “agency in the executive branch of the state government.” TEX. GOV’T CODE § 22.220(d)(1). If it is, then the Fifteenth Court has exclusive intermediate appellate jurisdiction over civil matters brought by or against a river authority. We hold that a river authority generally—and the Brazos River Authority specifically—does not qualify under the statute as an “agency in the executive branch.” Because this appeal does not fall within the

exclusive intermediate appellate jurisdiction of the Fifteenth Court, it should not have been transferred to that court, and we therefore grant the motion and return the appeal to the Tenth Court.

I

River authorities are conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution. *San Antonio River Auth. v. Austin Bridge & Rd., L.P.*, 601 S.W.3d 616, 620 n.11 (Tex. 2020). These authorities act as “regional water management entities, each with its own enabling legislation, created to address the water development and planning needs of river basins.” SENATE INTERIM COMM. ON NAT. RES., REPORT TO THE 77TH LEGISLATURE: MISSIONS AND ROLES OF TEXAS RIVER AUTHORITIES 6 (Nov. 1, 2000). That is, “a river authority is a large water district; originally formed in order to implement major flood-control and water storage projects and to coordinate federal, state and local water resource projects within a single river basin.” *Id.*

The Brazos River Authority was created in 1929 as a “river authority, a governmental agency, a municipality, and a body politic and corporate.” TEX. SPEC. DIST. CODE § 8502.001(a); SUNSET ADVISORY COMM’N, STAFF REPORT WITH FINAL RESULTS: BRAZOS RIVER AUTHORITY 1 (2021) [hereinafter SUNSET REPORT]. The Brazos River Authority manages “the watershed of the Brazos River” except for “portions lying within Freestone, Leon, and Madison counties,” TEX. SPEC. DIST. CODE § 8502.003, covering approximately 36,000 square miles of territory stretching “from the panhandle to the Gulf,” SUNSET REPORT at 1.

This is an appeal from a McLennan County district court’s judgment granting a permanent injunction in favor of Brazos River Authority, which requires Baumgardner to remove all portions of a boat ramp and an on-water boat dock facility that are located on, over, or above Possum Kingdom Lake. Baumgardner appealed the amended final judgment to the Tenth Court of Appeals in February 2024.¹ The Tenth Court determined that the appeal “is (or may be)” within the exclusive intermediate appellate jurisdiction of the new Fifteenth Court of Appeals, and this Court transferred the appeal to the Fifteenth Court effective September 1, 2024.² *Transfer of Cases to the Fifteenth Court of Appeals*, Misc. Docket No. 24-9055 (Tex. Aug. 26, 2024). Our transfer order explained that it was “not a determination by this Court of any legal issues regarding the jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District.” *Id.* at 6.

Brazos River Authority moved to re-transfer the appeal to the Tenth Court, arguing that the appeal does not fall within the Fifteenth Court’s exclusive intermediate appellate jurisdiction because river authorities have only regional jurisdiction and Section 22.220(d) of the Government Code lacks any language expressly including river authorities within the Fifteenth Court’s exclusive jurisdiction. The Fifteenth Court recommends that the case be re-transferred to the Tenth Court. The Tenth Court, in contrast, recommends that the case remain at the Fifteenth Court. Under the procedures discussed in *Miles*

¹ Case No. 10-24-00066-CV.

² Case No. 15-24-00070-CV.

v. Ford Motor Co., 914 S.W.2d 135, 137 n.2 (Tex. 1995),³ the transfer motion, along with the recommendations of the Tenth and Fifteenth Courts, were submitted to this Court for consideration. *See* TEX. GOV'T CODE § 73.001(a) (authorizing Supreme Court to transfer appeals “from one court of appeals to another” when “there is good cause for the transfer”). We received additional briefing from the parties and the Solicitor General.

II

In 2023, the Legislature passed Senate Bill 1045 creating the Fifteenth Court of Appeals. Act of May 21, 2023, 88th Leg., R.S., ch. 459, § 1.02, 2023 Tex. Gen. Laws 1113, 1114. That legislation amended Section 22.220 of the Government Code to grant the Fifteenth Court “exclusive intermediate appellate jurisdiction” over three categories of matters arising out of or relating to civil cases: (1) certain matters brought by or against the State, its executive branch agencies, or their officers or employees engaged in official conduct; (2) matters challenging the constitutionality or validity of a state statute or rule when the attorney general is a party; and (3) “any other matter as provided by law.” TEX. GOV'T CODE § 22.220(d).

³ For appeals perfected on or after September 1, 2024, this Court has adopted Rule of Appellate Procedure 27a to govern the transfer of appeals “inappropriately filed” in the Fifteenth Court. *See* TEX. GOV'T CODE § 73.001(c). Because this appeal was perfected before that date, Rule 27a does not apply. *See* TEX. R. APP. P. 27a cmt. (“Rule 27a only applies to appeals perfected on or after September 1, 2024.” (citing Act of May 21, 2023, 88th Leg., R.S., ch. 459, 2023 Tex. Gen. Laws 1113)).

The first category is at issue here. Specifically, Section 22.220(d)(1) provides that the following matters are within the Fifteenth Court’s exclusive intermediate appellate jurisdiction:

matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003, Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer’s or employee’s official conduct, other than [certain listed proceedings].

Id. § 22.220(d)(1) (emphases added).

The parties dispute whether the Brazos River Authority qualifies under the statute as an “agency in the executive branch of the state government.” We conclude that river authorities cannot be so characterized, and therefore matters brought by or against river authorities—including the Brazos River Authority—do not fall within the Fifteenth Court’s exclusive intermediate appellate jurisdiction on that basis.

We emphasize that our analysis is limited to correctly ascertaining the jurisdictional consequences that flow from the particular words this statute uses to define the Fifteenth Court’s exclusive intermediate appellate jurisdiction. The government of Texas consists of a host of entities that form a complex whole. We do not define river authorities’ role or their governmental status in any absolute sense but only address whether they fit within this particular jurisdictional statute’s definition. River authorities’ status for any other purpose is

not before us, and our holding today should not be understood to determine that status for such a purpose.

The question before us, then, is purely one of statutory construction, which presents an issue of law that we review de novo. *Maxim Crane Works, L.P. v. Zurich Am. Ins. Co.*, 642 S.W.3d 551, 557 (Tex. 2022). The “truest manifestation” of legislative intent is the “literal text” of the statute. *Id.* (quoting *Alex Sheshunoff Mgmt. Servs., L.P. v. Johnson*, 209 S.W.3d 644, 651 (Tex. 2006)). Accordingly, we rely on the plain meaning of the statutory text, reading contextually “to give effect to every word, clause, and sentence” and giving undefined words their “common, ordinary meaning unless a more precise definition is apparent from the statutory context or the plain meaning yields an absurd result.” *Fort Worth Transp. Auth. v. Rodriguez*, 547 S.W.3d 830, 838 (Tex. 2018).

We begin by considering the common, ordinary meaning of the prepositional phrase “in the executive branch of the state government.” The preposition “in” limits its application to entities that exist as part of, or within, the state executive branch. *In*, AMERICAN HERITAGE DICTIONARY 885 (5th ed. 2011) (defining “in” as “[w]ithin the limits, bounds, or area of”); *In; into*, GARNER’S MODERN AMERICAN USAGE 450 (3d ed. 2009) (explaining the preposition “*in* denotes position or location”). The remainder of the phrase “executive branch of the state government” excludes entities outside that branch, such as those within the legislative or judicial branches, *see In re State*, 682 S.W.3d 890, 895 (Tex. 2023) (recognizing that “[e]ach of the three branches of government has a distinct role”), as well as local entities or political

subdivisions, *see, e.g., Monsanto Co. v. Cornerstones Mun. Util. Dist.*, 865 S.W.2d 937, 940 (Tex. 1993) (“State government is defined generally in terms of the executive, legislative, and/or judicial branches, excluding entities with limited jurisdiction.”); *see also Political Subdivision*, BLACK’S LAW DICTIONARY (12th ed. 2024) (defining “political subdivision” as “[a] division of a state that exists primarily to discharge some function of local government”).

We conclude that river authorities are not part of the executive branch of the state government for purposes of Section 22.220(d). They certainly are not core executive agencies, which are generally described in Article IV of the Texas Constitution. Instead, river authorities derive their authority from a section contained within the “General Provisions” article of the Constitution. TEX. CONST. art. XVI, § 59.⁴

Similarly, the governing statutes for various river authorities are in Title 6 of the Special District Local Laws Code, *see, e.g., TEX. SPEC. DIST. CODE* §§ 8502.001-.020 (governing Brazos River Authority), rather than in Title 4 of the Government Code, which generally applies to the executive branch. Those governing statutes describe the Brazos River Authority as a “governmental agency” and “municipality” that is

⁴ In the early 1900s, water districts were established under Article III, Section 52, which relates to the legislative branch. *See* TEX. CONST. art. III, § 52(b)(1) (authorizing a county, political subdivision, or other local district to take certain actions for the purposes of “[t]he improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes”); *see also* I WATER DIST. & RIVER AUTH. STUDY COMM., REPORT TO THE 70TH TEXAS LEGISLATURE 29-30 (Dec. 1986). But Article III includes limitations on district indebtedness, and an initiative “to clearly establish the State’s right to regulate water resource management” led to the adoption of Article XVI, Section 59 in 1917. *Id.* at 30.

“subject to the continuing rights of supervision *by the state.*” *Id.* §§ 8502.001(a), .005 (emphasis added). These descriptors imply that, at least for purposes of the jurisdictional statute at issue, the Authority exists not as part of the state government but as an entity distinct from and subordinate to the State. *See Supervision*, BLACK’S LAW DICTIONARY (12th ed. 2024) (“The series of acts involved in managing, directing, or overseeing persons or projects.”); *see also Monsanto*, 865 S.W.2d at 940. Similarly, the Legislature’s choice to provide that the Authority is subject to sunset review “*as if* [the Authority] were a state agency” indicates that the Authority does not generally have that status. TEX. GOV’T CODE § 325.025(a) (emphasis added); *see* TEX. SPEC. DIST. CODE § 8502.0021(a) (governing sunset review of the Authority).

This Court’s cases provide further reason to conclude that river authorities are not generally understood to be state agencies. In other contexts, we have repeatedly described river authorities as “political subdivisions.” *See, e.g., San Jacinto River Auth. v. City of Conroe*, 688 S.W.3d 124, 130 (Tex. 2024) (“Governmental units, including political subdivisions like municipalities and river authorities, are generally immune from suit absent a legislative waiver.”); *San Jacinto River Auth. v. Medina*, 627 S.W.3d 618, 621 (Tex. 2021) (“The San Jacinto River Authority is a conservation and reclamation district created in 1937 as a political subdivision of the State of Texas.”); *Austin Bridge*, 601 S.W.3d at 620-21 (describing a river authority as a “political subdivision of the State [that] operates as a governmental agency performing governmental functions” (quoting *Clear Lake City Water Auth. v. Clear Lake Utils. Co.*, 549 S.W.2d 385, 391 (Tex. 1977))); *Canyon Reg’l Water*

Auth. v. Guadalupe–Blanco River Auth., 258 S.W.3d 613, 614 (Tex. 2008) (“Guadalupe–Blanco River Authority and Canyon Regional Water Authority are both agencies and political subdivisions of the State of Texas.”).⁵ Political subdivisions differ from state agencies in several respects:

A political subdivision has jurisdiction over a portion of the State; a department, board or agency of the State exercises its jurisdiction throughout the State. Members of the governing body of a political subdivision are elected in local elections or are appointed by locally elected officials; those who govern departments, boards or agencies of the State are elected in statewide elections or are appointed by State officials. Political subdivisions have the power to assess and collect taxes; departments, boards and agencies do not have that power.

Monsanto, 865 S.W.2d at 940 (quoting *Guar. Petroleum Corp. v. Armstrong*, 609 S.W.2d 529, 531 (Tex. 1980)).

Here, the jurisdiction of river authorities is geographically limited: Brazos River Authority manages only “the watershed of the Brazos River” except for “portions lying within Freestone, Leon, and Madison counties.” TEX. SPEC. DIST. CODE § 8502.003.⁶ The Authority could have taxing powers, though it does not currently exercise them as

⁵ We have also described other entities created under Article XVI, Section 59 as political subdivisions. *See, e.g., Guar. Petroleum Corp. v. Armstrong*, 609 S.W.2d 529, 530 (Tex. 1980) (concluding a navigation district is a political subdivision).

⁶ The lack of statewide jurisdiction is even more pronounced for other river authorities, some of which have a territory comprising only a handful of counties. *See, e.g., TEX. SPEC. DIST. CODE § 8504.003* (limiting the territory of the Lower Neches Valley Authority to three counties and narrow strips of land in two additional counties).

some other authorities do.⁷ Further, the Authority does not receive state appropriations but instead is funded primarily through water sales and water-treatment-related services. SUNSET REPORT at 5. On the other hand, the Authority—like most river authorities—does have its governing board appointed by the Governor. See TEX. SPEC. DIST. CODE § 8502.009(b).⁸ Overall, these considerations favor treating Brazos River Authority as a political subdivision rather than an agency in the executive branch of the state government for purposes of the Fifteenth Court’s jurisdictional statute.

Given this Court’s precedents and these features of river authorities, the Legislature presumably would have expressly mentioned river authorities—or used different language in the statute—if river authorities were to be treated as “agenc[ies] in the executive branch of the state government.” Baumgardner argues that the Legislature said enough. He invokes the *noscitur a sociis* canon of

⁷ The governing statutes allow the Authority to incur “continuing obligation or indebtedness payable from ad valorem taxes” for certain purposes if the relevant proposition “has been submitted to the qualified voters of the authority . . . and is approved by a majority of the electors voting on the proposition.” TEX. SPEC. DIST. CODE § 8502.11; *cf.*, *e.g.*, *id.* §§ 8511.0601-.0605 (tax provisions for Nueces River Authority); Act of Apr. 19, 1957, 55th Leg., R.S., ch. 83, § 1, sec. 10(a), 1957 Tex. Gen. Laws 185, 185 (granting taxing powers to Upper Guadalupe River Authority upon local election approving proposed ad valorem tax).

⁸ Some river authorities, such as the San Antonio River Authority, do have locally appointed or elected boards. See, *e.g.*, SUNSET ADVISORY COMM’N, STAFF REPORT WITH FINAL RESULTS: SAN ANTONIO RIVER AUTHORITY 5 (2023).

construction,⁹ contending that the clause including higher-education entities within the Fifteenth Court’s exclusive jurisdiction supports including river authorities as well. *See* TEX. GOV’T CODE § 22.220(d)(1) (covering matters brought by or against the state or executive branch entities, “including a university system or institution of higher education as defined by Section 61.003, Education Code”). We disagree.

The Legislature expanded the Fifteenth Court’s exclusive intermediate appellate jurisdiction by expressly including higher-education entities, which are not easy to categorize in traditional terms as either jurisdiction-exercising state agencies or political subdivisions. *See* TEX. GOV’T CODE § 311.005(13) (defining “including” as a term “of enlargement and not of limitation or exclusive enumeration”). Relying on that clause to sweep in other unenumerated governmental entities would “ascrib[e] to one word [or phrase] a meaning so broad that it is incommensurate with the statutory context.” *Greater Hous. P’ship v. Paxton*, 468 S.W.3d 51, 61 (Tex. 2015); *see Union Carbide Corp. v. Synatzske*, 438 S.W.3d 39, 52 (Tex. 2014) (“We take statutes as we find them, presuming the Legislature included words that it intended to include and omitted words it intended to omit.”). In other words, expressly including institutions of higher education but not mentioning river authorities (or using other text covering their characteristics) indicates that the Legislature did not intend to treat river authorities as state agencies within the executive branch.

⁹ The *noscitur a sociis* canon provides that “the meaning of a word or phrase, especially one in a list, should be known by the words immediately surrounding it.” *Greater Hous. P’ship v. Paxton*, 468 S.W.3d 51, 61 (Tex. 2015).

Baumgardner also observes that Section 22.220(d)(1) contains fifteen categories of proceedings specifically exempted from the Fifteenth Court’s exclusive intermediate appellate jurisdiction, including certain proceedings that could involve counties, local governmental entities, and other political subdivisions. *See* TEX. GOV’T CODE § 22.220(d)(1)(A)-(O). He infers from this list that the Legislature intended for all other proceedings involving local governmental entities and political subdivisions, including river authorities, to fall within the Fifteenth Court’s exclusive intermediate appellate jurisdiction.

Again, we disagree. These specifically enumerated exceptions demonstrate at most that the Legislature believed proceedings involving political subdivisions might sometimes fall within the Fifteenth Court’s jurisdiction, requiring their prophylactic exemption for the avoidance of doubt. But the lack of any express exception for matters involving river authorities does not suggest that such matters satisfy the initial jurisdiction requirement: that the matter involves the state or an entity in the executive branch of the state government. *See Pub. Util. Comm’n v. Luminant Energy Co.*, 691 S.W.3d 448, 460-61 (Tex. 2024) (explaining that we must consider the context and framework of the entire statute). Because river authorities do not fall within the Fifteenth Court’s exclusive jurisdiction for the reasons we have explained, there was no need for the Legislature to include such an exception.

III

This appeal against the Brazos River Authority does not fall within the exclusive intermediate appellate jurisdiction of the Fifteenth Court of Appeals. TEX. GOV’T CODE § 22.220(d)(1). Because that

jurisdiction was the basis for the original transfer order, we grant the motion to re-transfer the appeal to the Tenth Court of Appeals. *See Miles*, 914 S.W.2d at 137 n.2.

OPINION DELIVERED: June 27, 2025