

- SUBJECT:** Adopting Sunset recommendations for the Brazos River Authority
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 9 ayes — T. King, Harris, Bowers, Larson, Paul, Price, Ramos, Walle, Wilson
- 0 nays
- 2 absent — Kacal, Lucio
- WITNESSES:** For — David Collinsworth, Brazos River Authority; (*Registered, but did not testify*: Matt Phillips, Brazos River Authority)
- Against — None
- On — (*Registered, but did not testify*: Robert Romig, Sunset Advisory Commission)
- BACKGROUND:** The Brazos River Authority (BRA) was created by the Legislature in 1929 to provide for the conservation and development of natural resources in the Brazos River basin.
- Functions.** The BRA may conduct a broad range of activities, including building and operating reservoirs, engaging in flood control, selling water, treating wastewater, acquiring property by eminent domain, managing park land, and generating electricity.
- Governing structure.** The BRA is governed by a 21-member board of directors appointed by the governor with the advice and consent of the Senate. Members serve six-year staggered terms, and the presiding officer is designated by the governor. The board meets quarterly to provide oversight and approve the authority's budget, water sale rates, and large contracts.
- Funding.** The BRA does not receive state appropriations, nor does it

assess a tax, though the authority may issue bonds to finance capital projects. Funds are primarily generated from the sale of raw water and cost reimbursements from the operation of water and wastewater treatment facilities. In fiscal 2019, the BRA collected about \$64 million in revenue and spent about \$57.8 million.

Staffing. The authority employed 246 full-time employees in fiscal 2019, most of whom were located at the Waco headquarters or at the authority's three reservoirs: Possum Kingdom Lake, Lake Granbury, and Lake Limestone.

SB 523 by Birdwell, enacted by the 84th Legislature in 2015, subjects the Brazos River Authority to limited Sunset review every 12 years as if it were a state agency, except that the authority may not be abolished.

DIGEST:

CSHB 1570 would adopt certain Sunset Advisory Commission across-the-board recommendations for the Brazos River Authority (BRA). The bill would subject the authority to Sunset review as if it were a state agency scheduled to be abolished September 1, 2033.

Grounds for removal of directors. The bill would make it a ground for removal from the BRA board that a director did not have or maintain certain qualifications, was ineligible for directorship, could not discharge the individual's duties because of illness or disability, or was absent for more than half of the regularly scheduled meetings without an excuse.

If the general manager had knowledge that a potential ground for removal existed, the manager would have to notify the presiding officer of the board. The presiding officer then would notify the governor and attorney general. If the potential ground for removal involved the presiding officer, the general manager would notify the next highest ranking director.

Director training. The bill would prohibit an appointed person from being counted as a director until the person completed a training program. The bill also would provide requirements for the program. The general manager would have to create and provide to the directors a training

manual including the information required for the training.

A person serving on the board of directors could vote, deliberate, and be counted as in attendance at a board meeting until December 1, 2021, notwithstanding the bill's training requirements.

Policies separating policy-making and staff functions. The BRA board would be required to develop and implement policies that clearly separated the policy-making responsibilities of the board and the management responsibilities of the authority's general manager and staff.

Complaints. The bill would require the BRA to maintain a system to promptly and efficiently act on complaints. Information describing the BRA's procedures for complaint investigation and resolution would have to be available to the public.

Public testimony. The BRA would have to develop and implement policies that provided the public with a reasonable opportunity to appear before the board and speak on any issue under the authority's jurisdiction.

The bill would take effect September 1, 2021.

SUPPORTERS
SAY:

CSHB 1570 would implement recommendations from the Sunset Advisory Commission to help the Brazos River Authority (BRA) grow and mature so that it could successfully manage and develop critical projects in the largest river basin in Texas. The bill would provide opportunities for BRA to apply basic good government standards by adopting Sunset's across-the-board recommendations that are routinely applied to state agencies to ensure open, responsive, and effective government.

Aside from adopting these recommendations, other statutory changes to the BRA are unnecessary. The current system to appoint members to the BRA board of directors ensures that the members are qualified. The governor would not appoint, nor would the Senate approve, individuals without adequate experience.

Concerns that the general manager would be given too much authority over the presiding officer of the board of directors are unfounded. The presiding officer and board members provide general oversight over the BRA, but as the exclusive policymaking body they are distinct from the staff who carry out the daily work. CSHB 1570 correctly would task the general manager, who oversees the day-to-day operations of the BRA, with certain duties specified in the bill. Also, any complaints individuals had about the operations of the BRA could be reported under the complaint system established by the bill.

CRITICS
SAY:

CSHB 1570 would not go far enough in reforming the Brazos River Authority to ensure proper management of the basin. Currently, board members are appointed by the governor but are not subject to any job experience requirements. The bill should require board members to have certain qualifications to be appointed, especially qualifications in managing flood control or electric generation.

The bill also would provide too much power to the general manager over the presiding officer by allowing the general manager to report grounds for removal, create a training manual for the board, and perform other duties. It should be the presiding officer, not the general manager, who directs the board to ensure a sound chain of command. The bill also should allow any person who had knowledge of a reason to remove a board member to report the issue.