

BILL ANALYSIS

Senate Research Center
85R7353 GRM-D

H.B. 1921
By: Flynn (Nichols)
Agriculture, Water & Rural Affairs
5/15/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of H.B. 1921 is to enact the recommendations of the Sunset Advisory Commission regarding the Upper Colorado River Authority (UCRA). The legislature created UCRA in 1935 to preserve, store, and distribute the water of the upper portion of the Colorado River. UCRA receives no state appropriation and operated on a budget of about \$658,000 in fiscal year 2015. UCRA is funded by grant revenue from various state and federal environmental agencies, contracts with local cities, and a small amount of water sales to local cities.

The Sunset Commission found that UCRA performs its functions in a well-run, successful fashion and recommends updating its boundaries to match its service area.

The Upper Colorado River Authority is governed by Chapter 8506, Special District Local Laws Code.

This legislation addresses issues differently from current law by:

- clarifying UCRA's territory, boundaries, and board makeup to accurately reflect its jurisdiction;
- applying basic good government standards to UCRA's governing laws to promote accountability, transparency, and best practices; and
- updating the date of UCRA's next Sunset review to 2029, the standards 12-year period.

H.B. 1921 amends current law relating to the functions and territory of the Upper Colorado 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 8506.003, Special District Local Laws Code, as follows:

Sec. 8506.003. TERRITORY. Provides that unless modified under Subchapter J (Annexation or Exclusion of Land), Chapter 49 (Provisions Applicable to all Districts), Water Code, or other law, the territory of the Upper Colorado River Authority (authority) consists of that part of this state included in the boundaries of Coke, Concho, Crockett, Glasscock, Irion, Menard, Mitchell, Nolan, Reagan, Runnels, Schleicher, Sterling, Taylor, and Tom Green Counties, rather than included in the boundaries of Coke and Tom Green Counties.

SECTION 2. Amends Subchapter A, Chapter 8506, Special District Local Laws Code, by adding Section 8506.0021, as follows:

Sec. 8506.0021. APPLICATION OF SUNSET ACT. (a) Provides that the authority is subject to review under Chapter 325 (Sunset Law), Government Code (Texas Sunset Act), but is prohibited from being abolished under that chapter. Requires that the review be conducted under Section 325.025 (River Authorities Subject to Review), Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2029, and every 12th year after that year.

(b) Requires the authority to pay the cost incurred by the Sunset Advisory Commission (Sunset) in performing the review. Requires Sunset to determine the cost, and the authority to pay the amount promptly on receipt of a statement from Sunset detailing the cost.

SECTION 3. Amends Section 8506.051, Special District Local Laws Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires each director to be a resident of a county located in the authority's territory. Requires the governor to attempt to achieve geographic representation throughout the authority in the appointment of directors. Deletes existing text requiring three directors to be residents of Tom Green County, three directors to be residents of Coke County, and three directors to be residents of counties contiguous to the authority or a county any part of which is within 25 miles of the authority.

(d) Requires the governor to designate a member of the board of directors of the authority (board) as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

SECTION 4. Amends Section 8506.056(a), Special District Local Laws Code, to require the board to select a secretary and a treasurer, rather than a secretary, a presiding officer, and a treasurer.

SECTION 5. Amends Subchapter B, Chapter 8506, Special District Local Laws Code, by adding Sections 8506.060, 8506.061, 8506.062, and 8506.063, as follows:

Sec. 8506.060. DIRECTOR TRAINING PROGRAM. (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 the law governing authority operations; the programs, functions, rules, and budget of the authority; the scope of and limitations on the rulemaking authority of the authority; the results of the most recent formal audit of the authority; the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, and other laws applicable to directors of a river authority in performing their duties; and any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

(c) Provides that a person appointed to the board is entitled to reimbursement by the authority for travel expenses incurred in attending the training program regardless of whether attendance at the program occurs before or after the person qualifies for office.

(d) Requires the board to create a training manual that includes the information required by Subsection (b). Requires the board to distribute a copy of the training manual annually to each director. Requires each director, on receipt of the training manual, to sign and submit to the board a statement acknowledging receipt of the training manual.

Sec. 8506.061. SEPARATION OF POLICYMAKING AND MANAGEMENT FUNCTIONS. 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 staff of the authority.

Sec. 8506.062. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (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 authority 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 authority's jurisdiction.

(b) Requires that the authority's procedures relating to alternative dispute resolution 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 authority to coordinate the implementation of the policy adopted under Subsection (a), 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. 8506.063. PUBLIC COMMENT POLICY. 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 agenda item at board meetings.

SECTION 6. Amends Subchapter C, Chapter 8506, Special District Local Laws Code, by adding Section 8506.116, as follows:

Sec. 8506.116. COMPLAINTS. (a) Requires the authority to maintain system to promptly and efficiently act on complaints filed with the authority. Requires the authority 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 authority to make information available describing its procedure for complaint investigation and resolution.

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

SECTION 7. Repealer: Section 1A, Chapter 126 (Creating the Upper Colorado River Authority), General Laws, Acts of the 44th Legislature, Regular Session, 1935.

SECTION 8. (a) Authorizes a person serving on the board, notwithstanding Section 8506.060(a), Special District Laws Code, 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, 2017.

(b) Provides that this section expires January 1, 2018.

SECTION 9. 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 10. Effective date: September 1, 2017.