

BILL ANALYSIS

Senate Research Center
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H.B. 1570
By: Paddie (Hall)
Natural Resources & Economic Development
5/14/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to enact the statutory recommendations of the Sunset Advisory Commission on the Brazos River Authority (BRA). The legislature created BRA in 1929 to provide for the conservation and development of natural resources in the Brazos River basin, the largest river basin in Texas, stretching from the panhandle to the Gulf of Mexico.

Though BRA receives no state appropriations, it collected more than \$64 million in revenue in fiscal year 2019, 92 percent of which came from the sale of raw water and the cost-reimbursable operation of water and wastewater treatment facilities. BRA is subject to review but not abolishment under the Sunset Act.

The Sunset Commission concluded BRA should develop a more comprehensive approach to planning and prioritizing its numerous water development projects, as well as implement several standard contracting practices to ensure fairness and transparency. Although the commission has recommended several management actions, it found limited statutory changes were needed.

The provisions in this bill primarily focus on opportunities for BRA to apply basic good government standards to their governing laws. BRA is governed by Chapter 8502 of the Special District Local Laws Code. This legislation addresses issues differently from current law by:

- Providing grounds for removal of board members.
- Requiring board member training.
- Requiring policies to separate the duties of the board and staff.
- Requiring a system for receiving and acting on complaints.
- Requiring an opportunity for the public to testify before the board.

H.B. 1570 amends current law relating to the Brazos River Authority, following recommendations of the Sunset Advisory Commission, 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 8502.0021(a), Special District Local Laws Code, to require that the review under Chapter 325 (Sunset Law) 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, 2033, rather than September 1, 2021, and every 12th year after that year.

SECTION 2. Amends Chapter 8502, Special District Local Laws Code, by adding Sections 8502.0091, 8502.0092, 8502.0093, 8502.0094, and 8502.0095, as follows:

Sec. 8502.0091. GROUND FOR REMOVAL OF DIRECTORS. (a) Provides that it is a ground for removal from the board of directors of the Brazos River Authority (board) that a director:

(1) does not have at the time of taking office the qualifications required by Section 8502.009 (Board of Directors; Bonds; Quorum; Officers);

(2) does not maintain during service on the board the qualifications required by Section 8502.009;

(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 presiding officer of the board of the potential ground. Requires the presiding officer 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 presiding officer, 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. 8502.0092. DIRECTOR TRAINING. (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 board meeting 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 Brazos River Authority (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 disclosure of conflicts of interest, and other laws applicable to members of the governing body of a river authority in performing their duties; and any applicable ethics policies adopted by the authority 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 authority to create a training manual that includes the information required by Subsection (b). 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. 8502.0093. POLICIES TO SEPARATE POLICY-MAKING AND STAFF FUNCTIONS. 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 authority.

Sec. 8502.0094. COMPLAINTS. (a) Requires the authority to maintain a 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 describing its procedures for complaint investigation and resolution available to the public.

(c) Requires the authority to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Sec. 8502.0095. PUBLIC TESTIMONY. 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 authority.

SECTION 3. Authorizes a person serving on the board of directors of the Brazos River Authority, notwithstanding Section 8502.0092, Special District Local 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, 2021.

SECTION 4. Provides that all requirements of the constitution and the 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 5. Effective date: September 1, 2021.