

- SUBJECT:** Establishing a Sunset review process for river authorities
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 8 ayes — Keffer, Ashby, Frank, Kacal, Larson, Lucio, Nevárez, Workman
2 nays — D. Bonnen, T. King
1 absent — Burns
- SENATE VOTE:** On final passage, April 9 — 31-0
- WITNESSES:** (*On House companion bill, HB 1290*)
For — Bill Peacock, Texas Public Policy Foundation; (*Registered, but did not testify:* Ward Wyatt, Central Texas Water Coalition; Brian Mast, San Antonio River Authority; Ken Kramer, Sierra Club-Lone Star Chapter; Billy Howe, Texas Farm Bureau; Chloe Lieberknecht, The Nature Conservancy)

Against — None

On — Gregory Ellis, Bandera County River Authority and Groundwater District; Phil Wilson, Lower Colorado River Authority; Ken Levine, Sunset Advisory Commission; Dean Robbins, Texas Water Conservation Association; (*Registered, but did not testify:* David Mauk and Sarah Rountree Schlessinger, Bandera County River Authority and Groundwater District)
- BACKGROUND:** River authorities are “special law” districts governed by a board of directors that are either elected or appointed by the governor. River authorities often encompass entire river basins that reach multiple counties. In general, river authorities have been created to protect and develop the surface water resources of the state, but their duties can vary significantly. They may have responsibility for flood control, soil conservation, and protecting water quality. Some river authorities operate major reservoirs and sell untreated water on a wholesale basis. Some river

authorities also generate hydroelectric power, provide retail water and wastewater services, and develop recreational facilities.

Most river authorities do not have the authority to levy a tax but can issue revenue bonds based on the projected revenues received from the sale of water or electric power.

River authorities sometimes are referred to as quasi-state agencies or agencies of the state. Because they are governmental entities, they are subject to numerous requirements such as open meetings, open records, and financial audits. The State Auditor's Office has the authority to audit the financial transactions of water districts and river authorities as necessary. In addition, water districts and river authorities are subject to supervision by the Texas Commission on Environmental Quality, including agency rules requiring an independent management audit every five years.

In 2013, the 83rd Legislature enacted HB 2362 by Keffer to allow the Legislative Budget Board (LBB) to periodically review the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of a river authority. The LBB recently completed a management and performance review of the Brazos River Authority. A review of the Lower Colorado River Authority is due next but has not been scheduled.

DIGEST:

CSSB 523 would establish a limited Sunset review process for river authorities regarding governance, management, operating structure, and compliance with legislative requirements.

Limited Sunset review schedule. The river authorities would be subject to a review as if they were state agencies but could not be abolished. The following authorities would be scheduled for limited Sunset review according to the following schedule, based on the date each would be abolished if it were a state agency:

September 1, 2017, and every 12th year after:

- Brazos River Authority;

- Central Colorado River Authority; and
- Guadalupe-Blanco River Authority

September 1, 2019, and every 12th year after:

- Angelina and Neches River Authority;
- Lavaca-Navidad River Authority;
- Lower Colorado River Authority (not including the management of the generation or transmission of the authority's wholesale electricity operation and the authority's affiliated nonprofit corporations);
- Lower Neches Valley Authority; and
- Nueces River Authority

September 1, 2021, and every 12th year after:

- Palo Duro River Authority;
- Red River Authority of Texas;
- Sabine River Authority of Texas;
- Upper Colorado River Authority; and
- Upper Guadalupe River Authority

September 1, 2023, and every 12th year after:

- Bandera County River Authority and Groundwater District;
- San Antonio River Authority;
- San Jacinto River Authority;
- Sulphur River Basin Authority; and
- Trinity River Authority of Texas

The bill would repeal a provision in current law that makes the Sulphur River Basin Authority subject to Sunset review every 12 years as if it were a state agency, with an abolition date of September 1, 2017.

River authorities would be required to pay the cost incurred by the Sunset Advisory Commission in performing the review and could not be required to conduct a management audit as required by Texas Commission on Environmental Quality rule.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSSB 523 would provide direct oversight of river authority operations by establishing a consistent, uniform Sunset review process of an authority's governance, management, operating structure, and compliance with legislative requirements.

River authorities are entrusted with broad powers and the ability to manage the state's water, yet the Legislature has no direct oversight or review of their actions. Each river authority is created by special law and then turned over to a board of directors for management and operations. A Sunset review would ensure that river authorities were meeting their core functions. This is especially important given the prolonged drought the state is experiencing. Also, a Sunset review would provide an opportunity to examine more efficient ways to manage the authorities and issue bonds.

A river authority could not be abolished as a result of the limited review authorized by CSSB 523. These reviews would be for the purposes of open government, accountability, and transparent operations of river authorities. This bill would protect the bonding authority of river authorities by authorizing only limited Sunset review to guard against concerns that knowledge in the bond market that these entities could be abolished might increase their borrowing costs.

While an audit by the State Auditor's Office could be beneficial, it would be limited to the financial transactions of the authorities and should be used in addition to, rather than in place of, a Sunset review.

**OPPONENTS
SAY:**

CSSB 523 would be unnecessary and costly because river authorities already have multiple layers of oversight. While river authorities would no longer be required to have an independent management audit performed every five years under CSSB 523, they are still currently

subject to review by the Legislative Budget Board and the State Auditor's Office, as well as the continued supervision by the Texas Commission on Environmental Quality. Furthermore, the Legislature already has the ability to place a river authority under Sunset review as deemed necessary.

According to the Sunset Advisory Commission, the estimated cost per review could range from about \$65,000 to \$80,000, depending on the river authority and travel time of Sunset Advisory Commission staff. The larger river authorities, such as the Lower Colorado River Authority and Brazos River Authority, would incur higher costs. River authorities also may experience additional internal costs. A Sunset review could be a significant financial burden because many of the authorities operate on modest budgets with five or fewer employees. The authorities with the earlier Sunset dates might be further burdened by not having adequate time to prepare.

While an effort was made to avoid any negative impact to an authority's bond rating by not allowing for an authority to be abolished, a Sunset review still could create uncertainty and negatively affect an authority's bond rating, thereby increasing its borrowing costs. Other options to increase transparency would be less damaging, such as an audit by the State Auditor's Office.

OTHER
OPPONENTS
SAY:

CSSB 523 would affect any river authority, whether or not it met criteria to warrant a Sunset review. Some river authorities do not own or manage any surface water rights. It would be more appropriate to put all governor-appointed boards that own, market, and manage the state's surface water under Sunset review, whether those entities were river authorities or water districts.

NOTES:

According to the fiscal note, CSSB 523 would result in costs to the Sunset Advisory Commission of about \$414,000 during fiscal 2016-17 and about \$1.4 million over the next five fiscal years. All of these costs would be reimbursed by the river authorities.

Costs to the river authorities scheduled for review in fiscal 2016-17 are

estimated to be about \$274,000 for the Brazos River Authority and about \$70,000 each for the Central Colorado River Authority and the Guadalupe-Blanco River Authority.

The House companion bill, HB 1290 by Keffer, passed the House on April 23, by a vote of 138-2 (Dutton, T. King) and was referred to the Senate Committee on Administration on May 19.

CSSB 523 differs from the Senate-passed version in that under the House substitute, river authorities subject to Sunset review could not be required to conduct a management audit as required by Texas Commission on Environmental Quality rule, rather than requiring that such an audit be delayed by five years after a Sunset review. CSSB 523 also would exclude the Lower Colorado River Authority's affiliated nonprofit corporations from review and would change several of the Sunset review dates.