

**SUBJECT:** Adopting Sunset recommendations for the Sulphur River Basin Authority

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

**WITNESSES:** For — Fred Milton, Riverbend Water Resources District; John Jarvis and Wally Kraft, Sulphur River Basin Authority; (*Registered, but did not testify*: Bret McCoy, Sulphur River Basin Authority)

Against — None

On — (*Registered, but did not testify*: Sarah Kinkle, Sunset Advisory Commission)

**BACKGROUND:** The Legislature created the Sulphur River Basin Authority (SRBA) in 1985 to conserve and develop natural resources in the basin, located in northeast Texas.

**Functions.** SRBA may build and operate reservoirs, sell raw and treated water, conduct wastewater treatment, acquire property by eminent domain, build and manage park land, and generate electricity. SRBA studies the feasibility of developing water resources of the Sulphur River basin and monitors water quality under the Texas Clean Rivers Program.

**Governing structure.** SRBA is governed by a seven-member board appointed by the governor with the advice and consent of the Senate. The board comprises two members from each of the three regions of the basin and one at-large member, all of whom serve six-year staggered terms. The board meets monthly and elects a president to serve a two-year term.

**Funding.** SRBA receives no state appropriation. In fiscal 2015, SRBA collected about \$745,000 and spent about \$1 million. Around 84 percent

of funding comes from member cities and water districts in the Dallas-Fort Worth metroplex. The authority is not authorized to assess taxes.

**Staffing.** In fiscal 2015, SRBA had one employee, an administrator. The authority also contracts with a consultant to manage its contracts for the feasibility study.

SB 523 by Birdwell, enacted by the 84th Legislature in 2015, subjects the Sulphur River Basin 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 2180 would adopt certain Sunset Advisory Commission recommendations for the Sulphur River Basin Authority (SRBA). The bill also would require the SRBA to undergo Sunset review again as if it were a state agency scheduled to be abolished September 1, 2029.

**Board of directors.** CSHB 2180 would require the terms of the current members of the board of directors of the SRBA to expire on September 1, 2017. Current members could vote, deliberate, and be counted as a director until December 1, 2017. The governor would have to make new appointments by September 2, 2017, and could reappoint a board member whose term expired under the bill.

The governor also would designate a member as the presiding officer of the board and the position of president would be removed.

**Training and other policies.** CSHB 2180 also would establish procedures to train board members on policies including public information requirements and laws applicable to the authority. An individual who was appointed to the board could not vote, deliberate, or be counted as a before completing the training program. The board would distribute a copy of the training manual to each member annually.

The board would have to develop a policy to encourage the use of negotiated rulemaking procedures and appropriate alternative dispute resolution procedures that conform to guidelines issued by the State

Office of Administrative Hearings to the extent possible.

The bill also would require the board to develop and implement policies clearly separating the policymaking responsibilities of the board and the management responsibilities of the executive director and staff.

**Permits for proposed projects.** The board of the SRBA would be required to obtain advice on a proposed project from each county judge in the proposed area before voting on a project for which a permit would be sought.

**Complaints and legal notice.** The SRBA would be required to maintain a system to promptly and efficiently act on complaints filed with the authority. It would maintain certain information relating to the complaints and would make information available describing procedures for complaint investigation and resolution. The authority would have to periodically notify the complaint parties of the status of the complaint, until final disposition.

**Authority.** CSHB 2180 would remove authorization for the SRBA to aid in the foresting of the watershed area, furnish solid waste collection, acquire land for park and recreational purposes, or develop hydroelectric power.

The bill would take effect September 1, 2017.

SUPPORTERS  
SAY:

CSHB 2180 would adopt certain recommendations from the Sunset review of the Sulphur River Basin Authority (SRBA), making important changes to an authority that has been involved in regional controversies over a proposed reservoir project. The board's contract monitoring lacks detail, and the authority has provided limited oversight and accountability measures and insufficient transparency. The bill would expire the terms of current members of the SRBA board and create a training process for new directors, resulting in a properly trained board.

The board of directors also would have to develop certain policies to

separate the duties of the executive director from the board and to promote alternative dispute resolution methods. These policies would increase the efficiency of the SRBA, especially within the center of a huge state water fight.

The bill would adopt other necessary Sunset recommendations. The SRBA would maintain a system on the status of complaints against the authority, making the complaint process more open. The board also would have to reach out to local entities when seeking a permit for a proposed project, which would further increase transparency and cooperation in the region.

The governor should have the authority to appoint members to the board of the SRBA at his discretion, which would be granted by CSHB 2180.

**OPPONENTS  
SAY:**

CSHB 2180 would leave out an important Sunset recommendation to immediately replace the current board of directors. The committee substitute added language to the bill that would authorize the governor to reappoint any member whose term expired under the bill on September 1, 2017. The authority should have a new board of directors going forward.

**NOTES:**

The committee substitute removed language from the filed bill that would have prevented a person appointed to the SRBA board of directors on or before January 1, 2016, from being eligible for reappointment.

A companion bill, SB 308 by Nichols, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 6.