

## **BILL ANALYSIS**

Senate Research Center  
84R17219 JAM-D

H.B. 163  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is currently in the midst of the second worst drought in the state's history. The ongoing drought, which began in 2011, requires innovative strategies to address. It is time we develop a multifaceted plan to secure Texas' water future. One part of the strategy should include a five-state water commission.

For several years, the State of Texas has become entangled in a number of legal disputes regarding water allocation in the Southwest Region. These disputes have placed Texas in an adversarial position against nearly all of its neighboring states and Mexico. Recently, Texas has been engaged in disagreements that involve water from the Rio Grande that is currently being diverted by the government of New Mexico; whether Tarrant County should have the opportunity to buy water from Oklahoma; and the Mexican government's failure to allow Texas to take its share of water from the Rio Grande according to the Treaty of 1944.

These legal disputes waste taxpayer money and the results are often untimely and unfavorable. H.B. 163 is an attempt to take these disputes out of the courtroom and, instead, facilitate a dialogue between the Southwestern states that share contiguous bodies of water in order to effectively solve the ongoing problem of allocating a scarce and precious resource.

H.B. 163 calls for the creation of a Southwestern States Water Commission that would be charged with facilitating interstate cooperation to help resolve regional water issues. The commission would consist of three members: the governor or his designee; a member of the standing committee of the Senate that has jurisdiction over natural resources, appointed by the governor; and a member of the standing committee of the House that has jurisdiction over natural resources, appointed by the governor.

The commissioners will be tasked with sitting down with representatives from Oklahoma, Louisiana, New Mexico, and Arkansas as well as representatives from the government of Mexico to discuss several water related issues.

The Southwestern States Water Commission will also serve as a regional incubator of ideas regarding how to augment water supplies using innovation and emerging technology, including but not limited to Aquifer Storage and Recovery (ASR), desalination, and weather modification.

H.B. 163 amends current law relating to interstate cooperation to address regional water issues.

### **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 the heading to Chapter 8, Water Code, to read as follows:

#### CHAPTER 8. SOUTHWESTERN STATES WATER COMMISSION

SECTION 2. Amends Section 8.001(1), Water Code, to redefine "commission."

SECTION 3. Amends Section 8.011, Water Code, as follows:

Sec. 8.011. CREATION OF COMMISSION. Provides that the Southwestern States Water Commission (commission), rather than Multi-State Water Resources Planning Commission, is created as an advisory commission to the governor of the State of Texas (governor) and the legislature, rather than is created as agency of the state.

SECTION 4. Amends Section 8.013, Water Code, as follows:

Sec. 8.013. New heading: COMMISSIONERS; APPOINTMENT. (a) Provides that the commission is composed of three commissioners as follows:

- (1) the governor or the governor's designee, rather than seven commissioners who are appointed by the governor;
- (2) a member of the standing committee of the house of representatives that has jurisdiction over natural resources, appointed by the governor; and
- (3) a member of the standing committee of the senate that has jurisdiction over natural resources, appointed by the governor.

Deletes existing text providing that the commission is composed of seven commissioners who are appointed by the governor with the advice and consent of the senate.

(b) Requires the governor or the governor's designee to act as the official representative of this state on the commission and exercise all powers and duties of this state as a member of the commission, rather than requires the governor to make the appointments so that each member is from a different section of the state.

Deletes existing Subsection (c) requiring three commissioners to be members of the general public, one commissioner to have a background in the field of higher education, one commissioner to have a background in private business, one commissioner to have a background in agriculture, and one commissioner to have a background in an energy-related field.

SECTION 5. Amends Section 8.015, Water Code, as follows:

Sec. 8.015. New heading: TERMS. (a) Provides that the two appointed commissioners serve staggered terms of four years, with the term of one appointed commissioner expiring on February 1 of each odd-numbered year, rather than provides that commissioners hold office for staggered terms of six years, with the terms of two or three commissioners expiring on February 1 of each odd-numbered year.

(b) Provides that each appointed commissioners serves until the commissioner's successor is appointed, rather than each commissioner holds office until his successor is appointed and has qualified for office.

(c) Requires a vacancy in an appointed position on the commission to be filled for the unexpired portion of the term in the same manner as the original appointment, rather than requires the governor to appoint a successor to serve for the unexpired portion of the term if a vacancy occurs in the office of commissioner the governor.

SECTION 6. Amends Section 8.016, Water Code, as follows:

Sec. 8.016. CHAIRMAN. Requires the governor or the governor's designee to serve as chairman of the commission, rather than requires the governor to designate one commissioner as chairman of the commission to serve at the will of the governor.

SECTION 7. Amends Section 8.017(c), Water Code, to authorize the chairman or two commissioners to call a special meeting at any time by giving notice to the other commissioner or commissioners.

SECTION 8. Amends Section 8.019, Water Code, as follows:

Sec. 8.019. New heading: ADMINISTRATIVE SUPPORT. Requires the Texas Water Development Board (TWDB) to provide administrative support to the commission to assist the commission in carrying out this chapter, rather than requires TWDB to provide necessary staff and support to the commission to assist the commission in carrying out this chapter.

SECTION 9. Amends Section 8.051, Water Code, as follows:

Sec. 8.051. INTERACTION WITH OTHER STATES. (a) Authorizes the commission to discuss the water needs of the region in cooperation with representatives of neighboring states, rather than requires the commission to study the water needs of the region after the year 2000 in cooperation with representatives of neighboring states.

(b) Authorizes, rather than requires, the commission to initiate and carry out discussions with representatives of neighboring states relating to the identification and development of sources and methods of augmenting water supplies on a regional basis after existing water supplies are fully committed.

SECTION 10. Amends Section 8.052, Water Code, as follows:

Sec. 8.052. INTERACTION WITH MEXICO. Authorizes the commission to confer with the government of Mexico concerning water needs and development of sources of water supply, rather than requiring the commission to contract and confer with the government of Mexico concerning water needs and development of sources of water supply.

SECTION 11. Amends Section 8.056, Water Code, as follows:

Sec. 8.056. COMPACTS. Authorizes, rather than requires, the commission to contact and negotiate with other states regarding the need for establishing interstate compacts, addressing groundwater problems, needs, and supplies, if an aquifer underlies several states, and addressing other related subjects that would be beneficial to the states including the conservation and beneficial use of water.

SECTION 12. Repealers: Sections 8.014 (Officers of the State; Oath), 8.018 (Compensation; Expenses), and 8.053 (Studies), Water Code.

SECTION 13. (a) Requires the governor to appoint the initial appointed members of the Southwestern States Water Commission under Chapter 8, Water Code, as amended by this Act promptly after this Act takes effect.

(b) Requires the governor to appoint one person to a term expiring February 1, 2017, and one person to a term expiring February 1, 2019, in appointing the initial appointed members of the commission.

SECTION 14. Effective date: September 1, 2015.