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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 14, 2017

The Honorable Joe Straus
Texas House of Representatives
Capitol Station
PO Box 2910
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

House Bill (HB) 1921, as Filed by Representative Dan Flynn - Relating to the functions and territory of the Upper Colorado River Authority, following the recommendations of the Sunset Advisory Commission.

Dear Speaker Straus:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

H.B. 1921 amends Section 8506 of the Special District Local Laws code to incorporate recommendations of the Sunset Advisory Commission for the Upper Colorado River Authority (UCRA). If enacted, this bill is to take effect on September 1, 2017.

Section 1 of this bill proposes changes to the operational territory of UCRA by amending Section 8506.003 to include Concho, Crocket, Glasscock, Irion, Menard, Mitchell, Nolan, Reagan, Runnels, Schleicher, Sterling, and Taylor Counties. Not all of the added counties are located entirely within the Colorado River Basin, potentially due to watersheds that overlap county boundaries. Portions of Mitchell, Nolan, and Taylor counties are located within the Brazos river basin; while portions of Crockett, Regan and Schleicher counties are located within the Rio Grande river basin.

Section 2 of the bill proposes to add Section 8506.0021 which states that the UCRA is subject to review but may not be abolished under the Texas Sunset Act. The bill reiterates language from the Texas Sunset Act that "authority shall pay the cost incurred" with a sunset review and that the costs are determined by the Sunset Advisory Commission. This new section also adds that a Sunset Review of UCRA will be conducted as though it is a state agency scheduled to be abolished on 09/01/2029, and the Sunset Review will recur every 12 years thereafter.

Section 3 of the bill proposes to amend Section 8506.051 by removing language from Section 8506.051 (c) and adds Section 8506.051 (d). Section 8506.051 (c) is amended to remove the

requirement to appoint nine directors from specific geographic areas: three directors who reside in Tom Green County, three directors who reside in Coke County, and three directors who reside in counties contiguous to the authority of a county any part of which is within 25 miles of the authority. Section 8506.051 (c) is amended to add a requirement that each director on the board should be a resident in the authority's territory and creates a requirement for the governor to make an attempt to appoint directors that represent the territory geographically. Section 8506.051 (d) was added to require the governor to designate a board member as presiding officer.

Section 4 of the bill amends 8506.056 (a) to omit the requirement of the board to select a presiding officer. As proposed in Section 3 of the bill, the requirement to designate a presiding officer of the board is now assigned to the governor.

Section 5 of the bill adds several new sections to establish administrative changes to UCRA.

- Newly created Section 8506.060 (a) – (d) directs the board to create a Director Training Program.

- Section 8506.060 (a) requires completion of training for any director before he/she is permitted to vote, deliberate, or be counted as a director in attendance at board meetings.

- Section 8506.060 (b) adds requirements regarding what information will be included in the director training. This information includes the laws governing authority operations, authority programs, functions, rules, and budget, the scope and limitations on rulemaking, results of authority audits, requirements for open meetings, public information, administrative procedure, and disclosure of conflicts of interest, laws regarding directors and their duties, and authority ethics policies.

- Section 8506.060 (c) proposes that a board appointee is entitled to reimbursement for travel expenses incurred for training; eligibility of reimbursement is allowed for training which occurs before or after the person qualifies for office.

- Section 8506.060 (d) proposes the creation of a training manual and requirements for the distribution of the training manual.

- Newly created Section 8506.061 directs the board to develop and implement procedures which separate responsibilities of the board from that of the general manager and staff of the authority.

- Newly created Section 8506.062 (a-c) directs the board to develop a policy to encourage the use of procedures in Chapter 2008 and 2009 of the Government Code to adopt authority rules and to resolve disputes in the authority's jurisdiction, and directs the board to coordinate the implementation of this policy and provide training for how it will be implemented. It also directs the board to conform to alternative dispute resolution guidelines issued by the State Office of Administrative Hearings to resolve disputes as well as collect data on the effectiveness of these procedures.

•Newly created Section 8506.063 directs the board to establish a policy which allows the public an opportunity to participate in board meetings, including speaking on agenda items.

Section 6 of the bill adds Section 8506.116 (a) – (c) directing the authority to maintain a system to document details of complaints, act on complaints promptly, make available information about how complaints are investigated and resolved, as well as directing the authority to provide complaint parties with regular updates regarding the status of the complaint until it is resolved.

Section 7 repeals Section 1A, Chapter 126, General Laws, Acts of the 44th Legislature, Regular Session, 1935; which created the UCRA and established boundaries.

Section 8 establishes December 1, 2017 as the limit for a person serving on the board of directors for UCRA to vote, deliberate and be counted as a director in attendance of board meetings.

Section 9 of the bill includes notice of intent to introduce the bill in accordance with requirements in Section 59, Article XVI, Texas Constitution; and Chapter 313 of the Government Code. This section also identifies recipients of the information, including the governor and TCEQ.

Section 10 of the bill establishes an effective date of September 1, 2017.

History of the bill: Sunset review of the UCRA was conducted in accordance with S.B. 523 of the 84th Legislative Session, which required sunset review of 18 river authorities and scheduled review of 4-5 authorities for each biennium.

Sincerely,



Cari-Michel LaCaille, Director
Water Supply Division

cc: Honorable Lyle Larson, Chairman, House Natural Resources Committee
Representative Dan Flynn, Texas House of Representatives

