

1-1 By: Flynn, VanDeaver (Senate Sponsor - Nichols) H.B. No. 2180
 1-2 (In the Senate - Received from the House May 3, 2017;
 1-3 May 4, 2017, read first time and referred to Committee on
 1-4 Agriculture, Water & Rural Affairs; May 16, 2017, reported
 1-5 favorably by the following vote: Yeas 7, Nays 0; May 16, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the Sulphur River Basin Authority, following
 1-19 recommendations of the Sunset Advisory Commission.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 1A(a), Chapter 3, Acts of the 69th
 1-22 Legislature, 1st Called Session, 1985, as repealed by Chapter 938
 1-23 (H.B. 3123), Acts of the 84th Legislature, Regular Session, 2015,
 1-24 and amended by Chapter 1148 (S.B. 523), Acts of the 84th
 1-25 Legislature, Regular Session, 2015, is reenacted and amended to
 1-26 read as follows:

1-27 (a) The authority is subject to review under Chapter 325,
 1-28 Government Code (Texas Sunset Act), but may not be abolished under
 1-29 that chapter. The review shall be conducted under Section 325.025,
 1-30 Government Code, as if the authority were a state agency scheduled
 1-31 to be abolished September 1, 2029 [2017], and every 12th year after
 1-32 that year.

1-33 SECTION 2. Section 2(11), Chapter 3, Acts of the 69th
 1-34 Legislature, 1st Called Session, 1985, is amended to read as
 1-35 follows:

1-36 (11) "Waste" means sewage, industrial waste,
 1-37 municipal waste, recreational waste, agricultural waste, or waste
 1-38 heat[, ~~solid waste, or any other waste~~].

1-39 SECTION 3. Section 3(a), Chapter 3, Acts of the 69th
 1-40 Legislature, 1st Called Session, 1985, is amended to read as
 1-41 follows:

1-42 (a) The authority is composed of the territory in each
 1-43 county in Texas, other than Fannin County, that is located in whole
 1-44 or in part within the watershed of the Sulphur River and its
 1-45 tributaries with confluences with the Sulphur River upstream from
 1-46 the eastern boundary of Texas, as those watersheds and tributaries
 1-47 are defined by maps now on file with the development board [~~Texas~~
 1-48 ~~Department of Water Resources~~].

1-49 SECTION 4. Section 4, Chapter 3, Acts of the 69th
 1-50 Legislature, 1st Called Session, 1985, is amended to read as
 1-51 follows:

1-52 Sec. 4. AUTHORITY PURPOSES. The purpose of this Act is to
 1-53 authorize the authority to provide for the conservation and
 1-54 development of the state's natural resources within the basin of
 1-55 Sulphur River, including:

1-56 (1) the control, storage, preservation, and
 1-57 distribution of the state's water for domestic and municipal uses,
 1-58 industrial uses, irrigation, mining and recovery of minerals, stock
 1-59 raising, underground water recharge, electric power generation,
 1-60 navigation, [~~recreation and pleasure~~] and other beneficial uses
 1-61 and purposes;

- 2-1 (2) the reclamation and irrigation of land needing
- 2-2 irrigation;
- 2-3 (3) the reclamation and drainage of overflowed land
- 2-4 and other land needing drainage;
- 2-5 (4) the maintenance and enhancement of the quality of
- 2-6 the water;
- 2-7 (5) the conservation and development of the [~~forests,~~
- 2-8 ~~water~~ [~~, and hydroelectric power~~];
- 2-9 (6) the navigation of inland water; and
- 2-10 (7) the provision of systems, facilities, and
- 2-11 procedures for the collection, transportation, handling,
- 2-12 treatment, and disposal of waste [~~of all types~~].

2-13 SECTION 5. Section 6, Chapter 3, Acts of the 69th
 2-14 Legislature, 1st Called Session, 1985, is amended by amending
 2-15 Subsections (a), (b), (c), and (i) and adding Subsection (j) to read
 2-16 as follows:

2-17 (a) The authority shall be governed by a board of directors
 2-18 composed of seven [~~six~~] members. The members of the board shall be
 2-19 appointed by the governor with the advice and consent of the senate.
 2-20 One member of the board shall be appointed to represent the
 2-21 authority at large. Two members of the board shall be appointed
 2-22 from each of the following regions:

- 2-23 (1) Region 1: Bowie and Red River counties;
- 2-24 (2) Region 2: Cass, Franklin, Hunt, Morris, and Titus
- 2-25 counties; and
- 2-26 (3) Region 3: Delta, Hopkins, and Lamar counties.

2-27 (b) Each member of the board must be a qualified elector. A
 2-28 member of the board appointed to represent a region under
 2-29 Subsection (a) must be [~~and~~] a resident of a county in the region
 2-30 for which the member [~~he~~] is appointed.

2-31 (c) ~~Each~~ [~~Except for the initial members of the board, each~~]
 2-32 ~~member of the board shall serve for a term of six years and until the~~
 2-33 ~~member's~~ [~~his~~] successor has qualified. [~~Of the six initial~~
 2-34 ~~members appointed by the governor, the governor shall designate two~~
 2-35 ~~members to serve for terms that expire on February 1, 1987, two~~
 2-36 ~~members to serve for terms that expire on February 1, 1989, and two~~
 2-37 ~~members to serve for terms that expire on February 1, 1991.~~]

2-38 (i) The governor shall designate a member of the board as
 2-39 the presiding officer of the board to serve in that capacity at the
 2-40 pleasure of the governor.

2-41 (j) The board shall elect [~~a president,~~] one or more
 2-42 vice-presidents, a secretary, a treasurer, and other officers as
 2-43 the members of the board consider necessary. The presiding officer
 2-44 [~~president~~] and vice-president must be members of the board, but
 2-45 other officers are not required to be members of the board. The
 2-46 offices of the secretary and treasurer may be combined, and the
 2-47 offices of assistant secretary and assistant treasurer may be
 2-48 combined.

2-49 SECTION 6. Chapter 3, Acts of the 69th Legislature, 1st
 2-50 Called Session, 1985, is amended by adding Sections 6A and 6B to
 2-51 read as follows:

2-52 Sec. 6A. BOARD MEMBER TRAINING. (a) A person who is
 2-53 appointed to and qualifies for office as a member of the board may
 2-54 not vote, deliberate, or be counted as a member in attendance at a
 2-55 meeting of the board until the person completes a training program
 2-56 that complies with this section.

2-57 (b) The training program must provide the person with
 2-58 information regarding:

- 2-59 (1) the law governing authority operations;
- 2-60 (2) the programs, functions, rules, and budget of the
- 2-61 authority;
- 2-62 (3) the scope of and limitations on the rulemaking
- 2-63 authority of the authority;
- 2-64 (4) the results of the most recent formal audit of the
- 2-65 authority;
- 2-66 (5) the requirements of:

2-67 (A) laws relating to open meetings, public
 2-68 information, administrative procedure, and disclosing conflicts of
 2-69 interest; and

3-1 (B) other laws applicable to members of the
 3-2 governing body of a river authority in performing their duties; and
 3-3 (6) any applicable ethics policies adopted by the
 3-4 board or the Texas Ethics Commission.

3-5 (c) A person appointed to the board is entitled to
 3-6 reimbursement for the travel expenses incurred in attending the
 3-7 training program regardless of whether the attendance at the
 3-8 program occurs before or after the person qualifies for office.

3-9 (d) The board shall create a training manual that includes
 3-10 the information required by Subsection (b). The board shall
 3-11 distribute a copy of the training manual annually to each member of
 3-12 the board. On receipt of the training manual, each member of the
 3-13 board shall sign a statement acknowledging receipt of the training
 3-14 manual.

3-15 Sec. 6B. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
 3-16 RESOLUTION. (a) The board shall develop a policy to encourage the
 3-17 use of:

3-18 (1) negotiated rulemaking procedures under Chapter
 3-19 2008, Government Code, for the adoption of authority rules; and

3-20 (2) appropriate alternative dispute resolution
 3-21 procedures under Chapter 2009, Government Code, to assist in the
 3-22 resolution of internal and external disputes under the authority's
 3-23 jurisdiction.

3-24 (b) The authority's procedures relating to alternative
 3-25 dispute resolution must conform, to the extent possible, to any
 3-26 model guidelines issued by the State Office of Administrative
 3-27 Hearings for the use of alternative dispute resolution by state
 3-28 agencies.

3-29 (c) The authority shall:

3-30 (1) coordinate the implementation of the policy
 3-31 adopted under Subsection (a);

3-32 (2) provide training as needed to implement the
 3-33 procedures for negotiated rulemaking or alternative dispute
 3-34 resolution; and

3-35 (3) collect data concerning the effectiveness of those
 3-36 procedures.

3-37 SECTION 7. Section 8, Chapter 3, Acts of the 69th
 3-38 Legislature, 1st Called Session, 1985, is amended by adding
 3-39 Subsection (c) to read as follows:

3-40 (c) A director's compensation may be increased as
 3-41 authorized by Section 49.060, Water Code, by resolution adopted by
 3-42 the board in accordance with Subsection (e) of that section on or
 3-43 after September 1, 1995.

3-44 SECTION 8. Chapter 3, Acts of the 69th Legislature, 1st
 3-45 Called Session, 1985, is amended by adding Sections 10A and 13A to
 3-46 read as follows:

3-47 Sec. 10A. SEPARATION OF POLICYMAKING AND MANAGEMENT
 3-48 FUNCTIONS. The board shall develop and implement policies that
 3-49 clearly separate the policymaking responsibilities of the board and
 3-50 the management responsibilities of the executive director and staff
 3-51 of the authority.

3-52 Sec. 13A. COMPLAINTS. (a) The authority shall maintain a
 3-53 system to promptly and efficiently act on complaints filed with the
 3-54 authority. The authority shall maintain information about parties
 3-55 to the complaint, the subject matter of the complaint, a summary of
 3-56 the results of the review or investigation of the complaint, and its
 3-57 disposition.

3-58 (b) The authority shall make information available
 3-59 describing its procedures for complaint investigation and
 3-60 resolution.

3-61 (c) The authority shall periodically notify the complaint
 3-62 parties of the status of the complaint until final disposition.

3-63 SECTION 9. Sections 17(b) and (d), Chapter 3, Acts of the
 3-64 69th Legislature, 1st Called Session, 1985, are amended to read as
 3-65 follows:

3-66 (b) The authority may exercise the powers of control and use
 3-67 of the state's water in the manner and for the following purposes:

3-68 (1) to provide for the control and coordination of
 3-69 water use in the basin as a unit;

4-1 (2) to provide by adequate organization and
4-2 administration for the preservation of the rights of the people of
4-3 the different sections of the basin in the beneficial use of water;

4-4 (3) to provide for conserving storm water, floodwater,
4-5 and unappropriated flow of the basin, including the storage,
4-6 control, transportation, treatment, and distribution of that
4-7 water, and the prevention of the escape of water without the maximum
4-8 of public service and for the prevention of devastation of land from
4-9 recurrent overflows, and the protection of life and property in the
4-10 river basin from uncontrolled floodwater;

4-11 (4) to provide for the conservation of water essential
4-12 for domestic and other water uses of the people of the basin,
4-13 including necessary water supplies for cities, towns, and
4-14 industrial districts;

4-15 (5) to provide for the irrigation of land in the basin
4-16 where irrigation is required for agricultural purposes or is
4-17 considered helpful to more profitable agricultural production and
4-18 for the equitable distribution of storm water, floodwater, and
4-19 unappropriated flow water to the regional potential requirements
4-20 for all uses;

4-21 (6) to provide for the encouragement and development
4-22 of drainage systems and provisions for drainage of land in the
4-23 valleys of the basin needing drainage for profitable agricultural
4-24 and livestock production and industrial activities, and other
4-25 drainage of land for the most advantageous use;

4-26 (7) to provide for the conservation of soil against
4-27 destructive erosion, thereby preventing the increased flood menace
4-28 incident to erosion;

4-29 (8) to control and make available for use storm water,
4-30 floodwater, and unappropriated flow water as authorized by the
4-31 commission, in the development of commercial and industrial
4-32 enterprises in all sections of the watershed area of the authority;

4-33 (9) [~~to provide for the control, storage, and use of~~
4-34 ~~storm water, floodwater, and unappropriated flow water in the~~
4-35 ~~development and distribution of hydroelectric power, where this use~~
4-36 ~~may be economically coordinated with other and superior uses, and~~
4-37 ~~subordinated to the uses declared by law to be superior;~~

4-38 [~~(10)~~] to provide for each purpose and use for which
4-39 storm water, floodwater, and unappropriated flow water when
4-40 controlled and conserved may be used in the performance of a useful
4-41 service as contemplated and authorized by the provisions of the
4-42 constitution and laws of this state;

4-43 (10) [~~(11)~~] to control, store, and preserve the water
4-44 of the basin inside the boundaries of the authority for any useful
4-45 purpose;

4-46 (11) [~~(12)~~] to use, distribute, and sell water for any
4-47 beneficial purpose inside and outside the authority; and

4-48 (12) [~~(13)~~] to acquire water and water rights inside
4-49 and outside the authority.

4-50 (d) The authority shall adopt and implement a program of
4-51 water conservation consistent with rules and criteria duly adopted
4-52 and enforceable by the commission and development board
4-53 [~~department~~] for similarly situated authorities. A program of
4-54 water conservation means the use of practices, techniques, and
4-55 technologies that will reduce the consumption of water, reduce the
4-56 loss or waste of water, improve efficiency in the use of water, or
4-57 increase the recycling and reuse of water so that a water supply is
4-58 made available for future uses.

4-59 SECTION 10. Sections 20 and 23, Chapter 3, Acts of the 69th
4-60 Legislature, 1st Called Session, 1985, are amended to read as
4-61 follows:

4-62 Sec. 20. WATER QUALITY CONTROL. The authority is a river
4-63 authority for the purposes and definitions of Chapter 30, Water
4-64 Code, and the Clean Air Financing Act (Article 4477-5a, Vernon's
4-65 Texas Civil Statutes) [~~, and the Solid Waste Resource Recovery~~
4-66 ~~Financing Act (Article 4477-7a, Vernon's Texas Civil Statutes)] as
4-67 they apply to the authority. If a provision of the Clean Air
4-68 Financing Act [~~one of those Acts~~] conflicts with this Act,
4-69 this Act prevails.~~

5-1 Sec. 23. PERMITS AND LICENSES. (a) The authority shall
 5-2 apply for any permits, licenses, [~~franchises,~~] and other grants of
 5-3 authority required from the commission.

5-4 (b) The authority may apply for any permits, licenses,
 5-5 [~~franchises,~~] and financial assistance it may need from [~~the~~
 5-6 ~~department or~~] any federal, state, or local governmental agency.

5-7 (c) Before voting on a proposed project for which the board
 5-8 will seek a permit, the board shall obtain advice on the proposed
 5-9 project from the county judge of each county in which the proposed
 5-10 project is proposed to be located.

5-11 SECTION 11. Section 24(a), Chapter 3, Acts of the 69th
 5-12 Legislature, 1st Called Session, 1985, is amended to read as
 5-13 follows:

5-14 (a) The authority may enter into service contracts and may
 5-15 adopt resolutions and orders establishing rates and providing for
 5-16 the collection of fees and charges for the sale or use of water, the
 5-17 services of water transmission, treatment, and storage facilities,
 5-18 [~~solid and~~] liquid waste collection, treatment and disposal
 5-19 facilities and services, [~~the use of park and recreational~~
 5-20 ~~facilities,~~] the sale of power and electric energy, and any other
 5-21 services or facilities sold, furnished, or supplied by the
 5-22 authority.

5-23 SECTION 12. Sections 29(b) and (c), Chapter 3, Acts of the
 5-24 69th Legislature, 1st Called Session, 1985, are amended to read as
 5-25 follows:

5-26 (b) Notwithstanding any other law, the authority may:
 5-27 (1) undertake and carry out any activities that are
 5-28 related to or necessary in carrying out or performing any power or
 5-29 function of the authority;

5-30 (2) [~~it~~] enter into contracts, loan agreements, leases,
 5-31 or installment sales agreements; [~~it~~ and]

5-32 (3) acquire, purchase, construct, own, operate,
 5-33 maintain, repair, improve, or extend, and loan, lease, sell, or
 5-34 otherwise dispose of, including by such methods as loan payments,
 5-35 rentals, sales, and installment sales, as the parties may agree,
 5-36 any facilities, plants, buildings, structures, equipment, and
 5-37 appliances and [~~it~~] property or any interest in property; [~~it~~] and

5-38 (4) use any or all money or proceeds of bonds and other
 5-39 obligations. [~~This may be accomplished by such methods as loan~~
 5-40 payments, rentals, sales, and installment sales.]

5-41 (c) All persons are authorized to contract with the
 5-42 authority in any manner authorized by this Act, Chapter 30, Water
 5-43 Code, and the Clean Air Financing Act (Article 4477-5a, Vernon's
 5-44 Texas Civil Statutes) [~~and the Solid Waste Resource Recovery~~
 5-45 Financing Act (Article 4477-7a, Vernon's Texas Civil Statutes),]
 5-46 with respect to water, waste, pollution control, or any other
 5-47 facilities and any services provided by the authority. A public
 5-48 agency also may enter into and execute such a contract with the
 5-49 authority and may determine, agree, and pledge that all or any part
 5-50 of its payments under the contract is payable from the source
 5-51 described in Section 30.030(c), Water Code, subject only to the
 5-52 authorization of the contract, pledge, and payments by the
 5-53 governing body of the public agency. A public agency also may use
 5-54 and pledge any other available revenues or resources for payment of
 5-55 amounts due under those contracts, as an additional source or
 5-56 sources of payment or as the sole source or sources of payment.

5-57 SECTION 13. Section 37, Chapter 3, Acts of the 69th
 5-58 Legislature, 1st Called Session, 1985, is amended to read as
 5-59 follows:

5-60 Sec. 37. WORK WITH DEVELOPMENT BOARD. (a) The authority
 5-61 has and may exercise all the powers vested in political
 5-62 subdivisions under Title 2, Water Code.

5-63 (b) The authority has and may exercise [~~it~~, including] the
 5-64 powers necessary to enable the authority to participate in the
 5-65 programs administered by the development board [~~department~~] for the
 5-66 acquisition and development of facilities, the sale or lease of
 5-67 facilities, financial assistance to political subdivisions, and
 5-68 other programs administered by the development board.

5-69 SECTION 14. The following sections of Chapter 3, Acts of the

6-1 69th Legislature, 1st Called Session, 1985, are repealed:

- 6-2 (1) Section 2(5);
- 6-3 (2) Section 18;
- 6-4 (3) Section 21; and
- 6-5 (4) Section 22.

6-6 SECTION 15. (a) The terms of the members of the board of
6-7 directors of the Sulphur River Basin Authority serving on the
6-8 effective date of this Act expire on September 1, 2017.

6-9 (b) Not later than September 2, 2017, the governor shall
6-10 make the appointments required by Section 6, Chapter 3, Acts of the
6-11 69th Legislature, 1st Called Session, 1985, as amended by this Act.

6-12 (c) Notwithstanding Section 6(c), Chapter 3, Acts of the
6-13 69th Legislature, 1st Called Session, 1985, as amended by this Act,
6-14 of the seven initial members appointed by the governor under that
6-15 section, the governor shall designate two members to serve for
6-16 terms that expire on February 1, 2019, two members to serve for
6-17 terms that expire on February 1, 2021, and three members to serve
6-18 for terms that expire on February 1, 2023.

6-19 (d) The governor may appoint to the board of directors under
6-20 Subsection (b) of this section a member whose term expires under
6-21 Subsection (a) of this section.

6-22 SECTION 16. (a) Notwithstanding Section 6A, Chapter 3,
6-23 Acts of the 69th Legislature, 1st Called Session, 1985, as added by
6-24 this Act, a person serving on the board of directors of the Sulphur
6-25 River Basin Authority may vote, deliberate, and be counted as a
6-26 director in attendance at a meeting of the board until December 1,
6-27 2017.

6-28 (b) This section expires January 1, 2018.

6-29 SECTION 17. (a) The legal notice of the intention to
6-30 introduce this Act, setting forth the general substance of this
6-31 Act, has been published as provided by law, and the notice and a
6-32 copy of this Act have been furnished to all persons, agencies,
6-33 officials, or entities to which they are required to be furnished
6-34 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-35 Government Code.

6-36 (b) The governor, one of the required recipients, has
6-37 submitted the notice and Act to the Texas Commission on
6-38 Environmental Quality.

6-39 (c) The Texas Commission on Environmental Quality has filed
6-40 its recommendations relating to this Act with the governor, the
6-41 lieutenant governor, and the speaker of the house of
6-42 representatives within the required time.

6-43 (d) All requirements of the constitution and laws of this
6-44 state and the rules and procedures of the legislature with respect
6-45 to the notice, introduction, and passage of this Act are fulfilled
6-46 and accomplished.

6-47 SECTION 18. This Act takes effect September 1, 2017.

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