

BILL ANALYSIS

C.S.H.B. 1535
By: Clardy
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since its creation in 1937, the San Antonio River Authority (SARA) has managed the creeks and rivers in the San Antonio River basin, encompassing Bexar, Goliad, Karnes, and Wilson Counties. Through its extensive work with stakeholders and partners in the basin, SARA is regarded as generally well run, with a reputation for strong leadership and highly respected expertise across the various areas in which it works. However, the basin's rapid population growth has resulted in increasing demand for SARA's services, and SARA needs to evolve quickly to meet these new demands. Following its review of SARA, the Sunset Advisory Commission recommended SARA develop processes to be more transparent and accountable in its strategic planning and project selection processes, as well as in managing its various reserve funds. The sunset commission also recommended SARA better align its nonprofit partnerships with best practices and a number of standard contracting practices to ensure consistency and transparency in the way SARA awards and manages its contracts.

C.S.H.B. 1535 seeks to provide for the next sunset review of SARA during the 2034-2035 review cycle and implement these sunset commission recommendations to help ensure SARA is best equipped to continue to be effective in the face of population growth and evolving demands on its services in the basin.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1535 amends Chapter 276, Acts of the 45th Legislature, Regular Session, 1937, to set the next review of the San Antonio River Authority (SARA) under the Texas Sunset Act to be conducted during the 2034-2035 review cycle.

C.S.H.B. 1535 revises provisions governing SARA to implement across-the-board Sunset Advisory Commission policy recommendations relating to the following:

- board member training program;
- separation of the board's policy-making responsibilities and the staff's management responsibilities;
- public testimony at board meetings; and
- maintenance of complaint information.

The bill provides for the transition to the new training requirements for current board members.

C.S.H.B. 1535 changes the date of the biennial board member election from the third Saturday in January to the uniform election date in November. Accordingly, the bill changes the date on which a member's term commences following the election from the first day of February to the first day of January. The bill decreases the length of a member's term of office from six years to four years. These provisions of the bill apply only to the term of a member appointed or elected on or after the bill's effective date. The bill provides for the transition to the new election date and the new term length by establishing dates on which the various board member positions will be scheduled for election.

C.S.H.B. 1535 provides for the appointment by the board, from its membership, of any officers the board considers necessary, in addition to the existent chairman, vice-chairman, secretary, and treasurer positions. The bill expands the scope of the board's current authority to appoint an assistant secretary and an assistant treasurer by authorizing the board to appoint any assistant officers the board considers necessary. The bill revises the requirement for regular and special board meetings to be held, as well as the requirement for meeting notices to be given, as provided by SARA bylaws to subject these meetings and the giving of meeting notices also to general law.

C.S.H.B. 1535 removes a provision that authorizes SARA bylaws to provide for the designation by the board of an executive committee of five members upon whom the district's manager may call for policy decisions and advice concerning matters which arise between board meetings and that may authorize, on the district's behalf, the execution of any contract involving the expenditure of a maximum amount of \$20,000. The bill replaces the majority vote required for SARA's board to exercise SARA's powers, rights, privileges, and functions from a majority of those members present at any applicable meeting of the board constituting a quorum to a majority of the board's total membership. The bill changes the vote required to approve certain wholesale contracts from at least seven affirmative votes, with a requirement that these votes come from specified members, to a simple majority of the board's total membership.

C.S.H.B. 1535, with regard to a SARA property tax election, removes the following:

- the language limiting the electors entitled to vote in the election to only those qualified electors that own taxable property within SARA boundaries and who have duly rendered their property for taxation; and
- the requirement that a qualified elector vote in the county of the elector's residence and at the polling place designated for the precinct of the residence.

C.S.H.B. 1535 repeals provisions requiring SARA to prepare a master plan for the maximum development of its soil and water resources and that require the state auditor to annually audit the authority for a fiscal year that runs from July to June. The bill, effective January 1, 2025, establishes that SARA's fiscal year ends on September 30 of each year.

C.S.H.B. 1535 authorizes SARA to contract or otherwise coordinate with a nonprofit organization, including an affiliated nonprofit organization, to accomplish SARA's purposes. The bill defines "affiliated nonprofit organization" as a nonprofit organization created by SARA or for which SARA, its board of directors, or its employees have a right to appoint one or more of the members of the nonprofit organization's governing body. The bill prohibits SARA's board members from constituting a majority of the board of directors or other governing body of an affiliated nonprofit organization and prohibits SARA's employees from serving on such a governing body. The bill requires SARA's board of directors to develop a policy regarding fundraising activities of any nonprofit organizations that enter into a partnership with SARA. The policy must do the following:

- include acceptable and prohibited fundraising activities;
- specify how fundraising is conducted and supervised; and
- include criteria for seeking and selecting corporate sponsors to ensure that sponsorships serve the public interest and are consistent with SARA's purposes.

The bill requires a memorandum of understanding between SARA and an affiliated nonprofit organization entered into under these provisions to include this policy.

C.S.H.B. 1535 provides for the sale, lease, and other disposition of SARA property as authorized by a general law applicable to SARA.

C.S.H.B. 1535 revises SARA's authority to set a penalty for a violation of an applicable SARA rule or regulation to align that authority with the authority of certain water districts to set a penalty for a violation of a district rule under the Water Code. The bill also aligns provisions relating to SARA enforcement costs to those Water Code provisions.

C.S.H.B. 1535 revises certain contracting authority of SARA to align that authority with Water Code provisions applicable to certain water districts. The bill authorizes SARA to use any procurement method under applicable general law.

C.S.H.B. 1535 removes SARA's authority to condemn lands used or dedicated for cemetery purposes.

C.S.H.B. 1535 decreases from three to two the number of consecutive weeks required for publication for the following notices:

- notice of a SARA rule or regulation a violation of which results in a penalty;
- alternative notice of a SARA ordinance;
- notice for certain SARA contracts; and
- notice of certain sales of a SARA property or property interest.

C.S.H.B. 1535 repeals Sections 1(c), 4-a, and 14-a, Chapter 276, Acts of the 45th Legislature, Regular Session, 1937.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1535 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following provisions that were absent in the introduced:

- provisions that change the date of the biennial board member election and the month that a member's term commences;
- a provision that provides for the appointment by the board, from its membership, of any officers the board considers necessary, in addition to the existent chairman, vice-chairman, secretary, and treasurer positions;
- a provision that expands the scope of the board's current authority to appoint an assistant secretary and an assistant treasurer to authorize the board to appoint any assistant officers the board considers necessary;
- a provision that subjects the holding of regular and special board meetings, and the giving of meeting notices, to general law;
- a provision that removes the authorization for SARA bylaws to provide for the designation by the board of an executive committee;
- a provision that replaces the majority by which SARA's powers, rights, privileges, and functions may be exercised from a majority of the members present at any applicable board meeting constituting a quorum to a majority of the board's total membership;

- a provision that changes the required vote for approval of certain contracts from at least seven certain board members to a majority of the board's total membership;
- provisions that relate to the qualified electors and their polling places for a SARA property tax election;
- a provision that provides for the sale, lease, and other disposition of SARA property as authorized by a general law applicable to SARA;
- provisions that revise SARA's authority to set a penalty for a violation of an applicable SARA rule or regulation to align that authority with the authority of certain water districts to set a penalty for a violation of a district rule under the Water Code and that also align provisions relating to SARA enforcement costs to those Water Code provisions;
- provisions that revise certain contracting authority of SARA to align that authority with Water Code provisions applicable to certain water districts and that authorize SARA to use any procurement method under applicable general law;
- a provision that removes SARA's authority to condemn lands used or dedicated for cemetery purposes; and
- provisions that decrease from three to two the number of consecutive weeks required for publication of certain SARA notices.

With regard to the bill provision that establishes that SARA's fiscal year ends on September 30 of each year, the substitute provides an effective date of January 1, 2025, for that specific provision whereas the introduced did not provide an effective date specific to that provision.

Whereas the introduced prohibited SARA's employees from constituting a majority of the board of directors or other governing body of an affiliated nonprofit organization, the substitute instead prohibits SARA's employees from serving on such a governing body.